



Rhode Island Department of Revenue

Division of Taxation

ADV 2018-38
SALES TAX AND USE TAX

ADVISORY FOR TAX PROFESSIONALS
SEPTEMBER 4, 2018
(REV. SEPTEMBER 13, 2018)

Tax change takes effect on Monday, October 1

Sales/use tax to apply to vendor-hosted prewritten computer software (“software as a service”)

PROVIDENCE, R.I. – The Rhode Island Division of Taxation reminds tax professionals, tax software providers, businesses, and others about a tax change that will take effect on Monday, October 1, 2018.

On and after that date, the sale, storage, use, or other consumption of vendor-hosted prewritten computer software, sometimes referred to as “software as a service”, or SaaS, will be subject to Rhode Island’s 7 percent sales and use tax.¹

“If you access or use software available via the Internet, whether you download it or not, it will be taxable” starting October 1, 2018, said Assistant Tax Administrator Michael F. Canole, CPA.

“Under the new law, the tax will apply regardless of whether the access to, or use of, the software is permanent or temporary, and regardless of whether any downloading occurs,” he said.

The change is the result of legislation approved by the Rhode Island General Assembly and signed into law by Rhode Island Governor Gina M. Raimondo on June 22, 2018.²

WHAT'S NEW

- Rhode Island's sales and use tax will be extended to include software as a service.
- The new law applies to transactions on and after October 1, 2018.
- The new law applies to software for accounting, invoicing, human resources, payroll, sales tracking, and a number of other functions.
- If the vendor does not collect the tax, the consumer – whether a business or individual – is responsible for paying the tax directly to the Division of Taxation.

¹ In general, the term “prewritten computer software” means computer software, including prewritten upgrades, which is not designed and developed by the author or other creator to the specifications of a specific purchaser. Pre-written computer software delivered electronically or by “load and leave” became subject to Rhode Island sales and use tax October 1, 2011. Effective October 1, 2018, vendor-hosted prewritten computer software will become subject to Rhode Island sales and use tax – including prewritten computer software used or accessed “in the cloud” (cloud computing).

² House Bill 7200, Substitute A as amended (the budget bill for the 2019 fiscal year), which, among other things, amended Rhode Island General Laws §§ 44-18-7, 44-18-7.1, 44-18-8, 44-18-15, 44-18-20, 44-18-21, 44-18-22, 44-18-23, 44-18-25, and 44-19-7,

Examples of how tax applies

Examples of taxable purchases include the following:

- A paid subscription to software programs that provide digital tools for office work – such as a spreadsheet program, a program to create overhead presentations, or a program to create written documents.
- Programs that you pay for and that you access or use online to handle such functions as payroll, accounting, or human resources.
- Programs that you pay for and access or use online to manage the books of your business.
- Programs that you pay for and access or use online to handle customer relationship management (CRM).
- Online dating services that you pay for and use or access online, including through dating applications (“apps”) that you access or use on a computer, phone, or other device.
- Job-search programs that you pay to use, or a social media program that you pay for that links you to other professionals.

Old law, new law

- Under the old law, if you bought tax-preparation software off-the-shelf at a local store, perhaps on a compact disc, the transaction was taxable. That is still the case.
- Under the old law, if you bought tax-preparation software via download from a website, the transaction was taxable. That is still the case.
- Under the new law, if you go online and pay to use a tax program to prepare your tax return online – “in the cloud” (cloud computing) – the transaction will be subject to the tax.

Vendors collect tax

In general, the vendor will be responsible for collecting and remitting the tax. If the vendor is not already registered with the Division of Taxation, the vendor must register, obtain a sales permit, and collect and remit sales and use tax.

Rhode Island is a party to the Streamlined Sales and Use Tax Agreement, which is intended to simplify and modernize sales and use tax administration in order to substantially reduce the burden of tax compliance. Through the Streamlined Sales Tax Registration System, vendors may register online with multiple states, including Rhode Island, all at once, via the Streamlined Sales Tax Registration System: <https://www.streamlinedsalestax.org/index.php?page=technology-registration>.



A vendor who prefers instead to register directly with Rhode Island (not via Streamlined) may register online at the Division’s website if the vendor has a physical location in Rhode Island (see <https://www.ri.gov/taxation/BAR/>). Otherwise, the vendor must register on paper, using the Business Application and Registration (BAR) form posted on the list of forms under the following: http://www.tax.ri.gov/taxforms/sales_excise/sales_use.php.³

³ This Advisory has been revised as of September 13, 2018. The revision emphasizes the online registration option via Streamlined. The revision adds and clarifies information about options for vendors who prefer to register directly with the Division of Taxation (not via Streamlined).

Consumers pay tax

If the vendor does not charge the sales and use tax, the consumer – whether an individual or a business – will be responsible for paying the tax.

Individuals

Individual taxpayers may pay the tax by using Form T-205 (“Consumer’s Use Tax Return”) or by including the tax on their Rhode Island personal income tax returns. Form T-205 is available online:

http://www.tax.ri.gov/forms/2017/Excise/T-205_m.pdf. To pay online, see: <http://www.tax.ri.gov/misc/creditcard.php>.

Businesses

Businesses may pay the tax by using Form T-205 (see above). To pay by credit card or debit card: <http://www.tax.ri.gov/misc/creditcard.php>.

Businesses that already have a sales permit may pay by check using Form T-204M (for monthly filers) or Form T-204Q (for quarterly filers). The forms are available at:

http://www.tax.ri.gov/taxforms/sales_excise/sales_use.php. Or they may pay online via the following link: <https://www.ri.gov/taxation/business/index.php>.

About this Advisory

This Advisory is for general information purposes only. It is not a substitute for Rhode Island General Laws, or for Rhode Island Division of Taxation regulations, rulings, or notices.

The Division intends to update its regulations to reflect the changes in statute regarding the application of the sales and use tax to vendor-hosted prewritten computer software, and to provide additional information in that regulation, including examples, in keeping with the Division’s mission to help taxpayers understand and meet their tax responsibilities.

Other points

SOURCING: To determine the point at which tax is imposed, the Division will look to the end user. Thus, if the end user is in Rhode Island, the Rhode Island sales and use tax will apply.

NOT TAXABLE: Under the new law, the purchase of e-books, digital videos, and/or digital music products – whether by download or by stream – will continue to be tax-free.

FOR MORE INFORMATION: Anyone with questions may contact the Division’s Excise Tax section by phone at (401) 574-8955, or via email: Tax.Excise@tax.ri.gov.

The Rhode Island Division of Taxation office is at One Capitol Hill in Providence, R.I., diagonally across from the Smith Street entrance of the State House, and is open to the public 8:30 a.m. to 3:30 p.m. business days. To learn more, see the agency’s website: www.tax.ri.gov.