

H.F. 3004

As amended by H3004DE1

Subject Sales tax on prewritten computer software accessed on the “cloud”

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Summary

Expands the definition of taxable prewritten computer software to include charges to access prewritten computer software when the software itself is maintained by the seller or a third party. Effective for sales and purchases made after June 30, 2020.

Background: Prewritten (canned) computer software has long been subject to the state sales tax, whether transferred or delivered as tangible property or “...electronically, by load or leave, or otherwise.” The statute defines “delivered electronically” for computer software as “delivered to the purchaser by means other than tangible storage media”; it does not address the issue of accessing the software electronically without a transfer of the product.

In 2013 the state began taxing digital goods such as music, videos, and games transferred or delivered electronically. The new statute for digital goods explicitly stated that “transferred electronically” did not require physical transfer of the product, but included sales where the purchaser had access to the digital good. This definition does not apply to prewritten computer software since it is not defined as a “digital good.”