



SALT Alert! 2025-11: Washington issues interim guidance on newly taxable services

Background

In May 2025, Washington enacted a series of tax increases to address a substantial budget deficit. Among these was [Engrossed Substitute Senate Bill 5814](#) (ESSB 5814), which expanded the definition of “retail sales” to include several services previously excluded from sales tax, effective October 1, 2025. The services on which sales tax is now imposed include advertising services, custom software, custom website development, information technology services, live presentations, investigation, security, and armored car services, and temporary staffing services.

The Washington Department of Revenue recently released interim guidance to assist taxpayers with the implementation of ESSB 5814. The [interim guidance statements](#), on which taxpayers may rely until final guidance is issued, generally describe the scope and contours of the newly taxable services, as well as the application of sourcing, multiple points of use, and other rules to transactions involving the services. Statements were also issued on the impact ESSB 5814 has on existing contracts and the termination of certain exclusions from the definition of digital automated services (DAS), a type of taxable digital product. The guidance statement for each service includes examples demonstrating the Department’s application of certain general rules to the specific service. This Alert first reviews the principles and rules of common application and then moves to the specifics of information presented for each service.

Guidance on Common Application

Sourcing

Washington, as a full member state of the Streamlined Sales and Use Tax Agreement (SSUTA), applies a destination-based sourcing framework for the retail sale of taxable services. Tax is generally imposed, and the sale is deemed to take place, where the service is “received” by the purchaser, which is interpreted as the point of first use or [where the purchaser can potentially first make use of the result of the service](#). To determine the point of first use, the state employs a sourcing hierarchy put forth in SSUTA. The following steps are to be used in determining where a sale takes place, with each subsequent step being applied only if the previous step is not met:

1. Seller’s place of business if service is received there;

2. Purchaser's actual use location if known;
3. Purchaser's address in seller's business records if the location of use is not known;
4. Purchaser's address obtained at time of sale (e.g., payment instrument) if there is no address in the records; and
5. Location from which the seller provided the service, if none of the foregoing are satisfied.

Additionally, the Department notes that for services received at multiple known locations, the service may be allocated proportionally based on the amount of service received at each location or equally among the known locations. If the location of receipt is unknown, the transaction may be sourced to an address if done in good faith without intent to avoid having use occur in Washington.

Multiple Points of Use (MPU) Exemption

In Washington, an MPU exemption can apply to the sale of digital goods, digital codes, digital automated services, prewritten computer software, and custom software if the product will be used by the purchaser concurrently inside and outside Washington. Purchasers claiming the MPU exemption must apportion and report use tax directly to the Department, based on the proportion of use in Washington, and the seller is relieved of any obligation to collect tax on the transaction. The exemption is not available for bundled transactions unless each product/service in the bundle is separately itemized.

Resale

A seller may purchase services for resale from a subcontractor if the seller is contractually responsible for providing the service to a third-party buyer and the seller makes no intervening use of the service. The seller may provide a valid reseller's permit or other approved exemption certificate to a subcontractor to substantiate that the services qualify for resale.

Treatment of Existing Contracts

Transitional treatment is available for contracts signed and executed prior to October 1, 2025, for services now subject to sales tax under ESSB 5814.

- If the contract exists and the contract price is paid prior to October 1, 2025, but the services are provided on or after October 1, 2025, the Department considers the sale to have occurred prior to October 1, 2025. The transaction is not subject to the retail sales and use tax but remains subject to the business and occupation tax classification that applied prior to ESSB 5814.
- If the contract price has not been paid, but service has been provided by or continues after October 1, 2025, the Department will allow reporting under the prior tax classification through March 31, 2026. For periods beginning on or after April 1, 2026, retail sales tax must be applied.
- If an existing contract is materially altered after October 1, 2025, the new retail sales tax treatment will apply as of the date of alteration. "Material changes" include changes to the parties or terms affecting the parties' rights or obligations, as well as contract activities, amount, or duration.

Other Common Issues

- **Business & Occupation (B&O) tax:** The Washington B&O tax is a gross receipts tax that is measured by the gross income earned from business activities, without deductions for such items as cost of goods sold. Since ESSB 5814 redefines several services as “retail sales,” the B&O activity classification and tax rate applicable to these services will change. Generally, all transactions subject to retail sales tax are classified as “Retailing” for B&O purposes, and they are subject to a rate of 0.471 percent. If services are purchased for resale, this activity will generally be classified as “Wholesaling” for B&O purposes and will be subject to a 0.484 percent rate.
- **Affiliated Group Transactions:** Under ESSB 5814, most sales of the newly enumerated taxable services when made between affiliated group members are generally excluded from the definition of “retail sale” and are subject to B&O tax under the Service and Other Activities B&O classification (as they are at present) which is subject to tax rates of 1.5 percent, 1.75 percent, or 2.1 percent, effective October 1, 2025, depending on the gross receipts of the taxpayer and the nature of the activity.
- **Documentation:** Sellers and purchasers must retain contracts, invoices, sourcing records and data, exemption certificates, and other records to substantiate tax treatment.

Guidance on Specific Services

Advertising Services: ESSB 5814 defines advertising services to include all digital and nondigital services related to the creation, preparation, or dissemination of advertisements, including, but not limited to:

- (A) Layout, art direction, graphic design, mechanical preparation, production supervision, placement, referrals, acquisition of advertising space, and rendering advice concerning the best methods of advertising products or services; and
- (B) Online referrals, search engine marketing, lead generation optimization, web campaign planning, the acquisition of advertising space in the internet media, and the monitoring and evaluation of website traffic for purposes of determining the effectiveness of an advertising campaign.

Advertising services do not include:

- (A) Web hosting services and domain name registration;
- (B) Services rendered in respect to the following:
 - (I) "newspapers" as defined in RCW 82.04.214;
 - (II) printing or publishing under RCW 82.04.280; and
 - (III) "radio and television broadcasting" within this state as defined in RCW 82.04.28.
- (C) Services rendered in respect to "out-of-home advertising," including billboards, transit advertising, in-store displays, point-of-sale advertising, etc.

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The guidance begins by discussing the two categories of activities identified in ESSB 5814:

- **Pre-Dissemination Services (Creative work):** Pre-dissemination services include activities such as graphic design, layout, and planning. If these services are sold without any dissemination services, they are to be sourced to the location at which the purchaser reviews the service.
- **Dissemination Services:** Dissemination services refer to the actual release or distribution of the advertising and include placement, monitoring, and evaluation of ads. This service is to be sourced to where the advertising is first viewed or interacted with by the user or recipient, which is typically the location of the audience based on their zip code, IP address, or other similar marker. If a seller provides both the pre-dissemination services and the dissemination services for a campaign, these sales should be sourced to where the advertising will be disseminated, i.e., to the user or audience location.
- If the location of the service is known, the retailer has the responsibility to source the service to that location. If there are multiple locations, the retailer should proportionally apportion the sale based on the amount received at each location; the Department will also accept an equal apportionment to the known locations. If the service is received at multiple locations, the seller and purchaser may allocate the sale among the locations based on a reasonable and consistent method of apportionment provided by the purchaser at the time of the invoice. The reasonableness of this allocation will be subject to review by the Department. If the seller knows the location of receipt but is unable to determine the complete street address or nine-digit zip code, the seller may submit a request to the Department to utilize a pool code for sales tax reporting purposes.
- If the retailer does not know the location at the time of charging for the service, the retailer may source the sale to the address of the purchaser on file with the seller, or the address obtained at the time of sale, if done in good faith.
- **MPU Exemption:** If the service is to be used concurrently both inside and outside of Washington, and the service meets the definition of a digital automated service, the purchaser may issue an MPU to the seller. If an MPU certificate is issued, the seller is relieved of any sales tax collection obligation, and the purchaser assumes the responsibility of appropriately apportioning the sales inside and outside of Washington. When the purchaser of the advertising services claims multiple points of use but is unable to determine the specific locations to which the advertisements should be sourced, a reasonable method of estimation for apportionment may be used. The reasonable estimation method may be used, based on Internet usage statistics or other types of data that indicate where the advertisements are viewed. When determining the apportionment for Washington through this method, the appropriate pool code may be used for tax rate purposes. The determination of whether the advertising service will meet the definition of DAS is the responsibility of the purchaser.

- **Direct Pay Permits:** Eligible purchasers of advertising services may use direct pay permits to remit sales and use tax directly to the Department, which also relieves the seller of its collection and remittance obligation. To receive a direct pay permit, a purchaser must meet certain requirements and submit a permit application to the Department for approval.

Custom Software: Both the creation of custom software and the customization of prewritten software are newly taxable services. Washington law defines custom software only as “software created for a single person” without further amplification in the law or existing regulations. “Customization of prewritten software” includes the “alteration, modification, or development of applications using or incorporating prewritten computer software for a specific person.” Customization does not include the routine installation of software or computer hardware, and the customization of software does not change the underlying character or taxability of the original, prewritten computer software.

Custom software should be sourced to the location or locations where “the purchaser ... can potentially first make use of the result of the service.” A feature of custom software in today’s digital environment is that licenses for the custom product may be offered to multiple users within the purchaser’s company, some of which may be known at the time of purchase, and others of which may not be known. To deal with such situations, the Department put forth the following guidance:

- If the locations at which the service is received (i.e., will be used) are known at the time of the sale, the service must be sourced and allocated to those locations. The Department will accept a proportional allocation based on the amount received or an equal allocation among the locations. Alternatively, the transaction may be allocated in a reasonable and consistent method of sourcing agreed upon by the seller and purchaser at the time of the sale, provided the allocation is based on information provided by the purchaser. The reasonableness of the method may be reviewed by the Department.
- If the locations at which the service is received are not known at the time of the sale, the service will be deemed to be received at the address of the purchaser based on the records of the seller, provided the address is not used in bad faith.
- Additionally, multiple licenses for the use of custom software have the potential to be used concurrently both inside and outside of Washington. In these instances, the purchaser may provide an MPU certificate to the retailer, provided the various requirements for using an MPU are met. When an MPU is issued, the burden of tax remittance shifts from the seller to the purchaser who becomes responsible for properly sourcing the transaction and allocating use tax to all appropriate jurisdictions.

Custom Website Development Services: This newly taxable service is defined as the design, development, and support of a website provided by the website developer, including consulting and training. These services do not include web hosting or domain name registration services. The Department notes that it considers website consulting and training services to be supporting the functionality and operation of a website, and therefore taxable.

The sourcing guidance by the Department for custom website development services tracks

the model for custom software development. When the location or locations at which the services will be first received, the transaction and subsequent tax liability should be sourced in proportion to the amount of service received at each location. Alternatively, the transaction may be sourced equally to all locations or per an agreement between the seller and buyer regarding the allocation among locations that is based on information provided by the buyer. If the location at which the service is received is not known at the time of the transaction, the sale will be deemed to take place at the address of the purchaser available to the seller, provided the address is not used in bad faith. Like advertising and certain other of the services, custom website development may enable the purchaser of the service to provide an MPU exemption certificate if the service provided meets the definition of a digital automated service.

Information Technology (IT) Services: This new taxable category includes any services that “support or assist IT infrastructure.” Examples of taxable IT services include providing network assessments, planning, design, migration services, network security services, system upgrades and other network maintenance services. It also includes help desk services, in-person training related to hardware or software, network system support, data entry, data processing, IT consulting, project management, managed IT services, and onboarding/offboarding support. For purposes of IT services, the guidance defines “data processing services” to be services for which the primary objective is to systematically perform operations on data provided by the purchaser to extract required information and transform it into usable information. These services include check processing, image processing, form processing, survey processing, payroll processing, claim processing and similar activities.

Excluded from the definition of IT services are web hosting, domain registration, and payment processing services. Also excluded from the definition are certain services that are separately subject to tax as retail sales, including custom website development, digital automated services, remotely accessed prewritten software, custom software, customization of prewritten software, and telecommunications services.

The guidance indicates that the sourcing of IT services should follow the rules laid out for custom software and custom website development. As such, if the locations at which the IT services will be received are known, the transaction may be sourced based on the proportion received at each location, an equal allocation among locations, or a reasonable and consistent apportionment method agreed to between the parties at the time of sale. If the location of receipt is not known, the transaction should be sourced in good faith to the address available to the seller. Additionally, like other services, the guidance indicates that the location where IT services are to be sourced should be documented in the contract, invoices, or service agreement.

Investigation, Security, Security Monitoring, and Armored Car Services: Investigation services subject to tax generally rely on interviews, surveillance, and behavioral analysis, and specifically include private detective, background check, fingerprint, bounty hunting, private investigation, lie detection and polygraph, missing person tracing, and skip tracing services. Security, security monitoring, and armored car services subject to tax encompass security guard and patrol services, personal and event security, armored car transportation of cash and valuables, and security system services including alarm monitoring. The guidance indicates that the Department is treating the listed “investigation services” as an exclusive list, pending possible additions based on further research. Any changes will be applied prospectively.

Investigation, security, security monitoring, and armored car services do not include

locksmith services, forensic accounting, internal human resources investigations, cybersecurity services, or process servers.

The sourcing for investigation, security, security monitoring and armored car services follows the rules laid out for custom software above regarding when receipt of the service occurs at known and unknown locations. The guidance indicates, however, that it does not anticipate that the allocation of receipt for investigation services or armored car services will generally be required.

Live Performance/Presentation Services: A taxable “live presentation” is defined to include, but is not limited to, a lecture, seminar, workshop, or course which participants attend either in-person or via Internet or telecommunications equipment, thus allowing audience members and the presenter or instructor to give, receive, and discuss information in real time. The activity must be structured to inform, explain, persuade, or educate, and must allow more than one attendee; real-time interaction is permitted but not required. The guidance notes that even if interactivity features are disabled for a platform used to deliver a webinar in real time, this disablement would not affect the taxability of a live presentation. The guidance further notes that specific determinations of what constitutes a live presentation will depend on the facts and circumstances surrounding it.

Live presentations do not include classes provided by preschools, elementary or secondary schools, or accredited higher education institutions, nor do they include performances, movies, sports events, fundraising events, one-on-one instruction, professional services during which the presentation is part of a broader engagement, or pre-recorded content delivered electronically. For example, a live webinar with multiple participants qualifies as a live presentation, while one-on-one consulting or a recorded webinar does not, but the recorded webinar would be considered a taxable digital product.

For sourcing purposes, live performances will follow rules like the previously addressed services. Specifically, the guidance identifies these scenarios: (a) when all attendees are in person, the sourcing is to the location of the presentation; (b) when a presentation is paid for by one purchaser, but all attendees are remote in multiple locations, the transaction is sourced to the location of the attendee as provided by the purchaser or can be determined by the seller; (c) when the presentation consists of both in-person and remote attendance, it is sourced to the location of the individual purchaser/attendee; and (d) if the location of the attendee or purchaser is unknown, the sale is deemed to take place at the address available to the seller at the time of the transaction. Documentation for presentation services requires a bit more than some other services. The retailer should maintain records of how many viewed the presentation in person versus how many watched remotely. When there is one buyer for multiple attendees, it is important to know how many attendees are associated with the single buyer, so that the presentation can be sourced accurately.

Temporary Staffing Services: Services taxable as temporary staffing services involve providing workers to other businesses, except for licensed hospitals, for limited periods to supplement their workforce and fill employment vacancies on a contract or fee basis. To be taxable as temporary staffing, the taxpayer must recruit and hire their own employees, find organizations that need those employees, and assign them on a temporary basis to perform work at or for other organizations, typically under the direction and supervision of the customer, with the intent to reassign employees to other organizations after each assignment.

Services not considered temporary staffing include direct hires (where the employer hires

workers directly, even for short durations), independent contractor arrangements, paymaster relationships, and outsourcing to third-party companies that manage and supervise their own workforce.

The sourcing for temporary staffing services is like custom software services and IT services, with a significant exception. When a temporary worker is stationed in-person at the location of the purchaser, the service is sourced to that location. If, however, the temporary staff provides the service remotely to the purchaser, the service is sourced to the location at which the purchaser's staff is being supplemented, not to the remote location from which the temporary staff is working. When temporary staff are working in multiple locations, the transaction should be sourced to those locations based on hours worked at the location or other verifiable means. Equal allocation among the locations is acceptable; in addition, the seller and purchaser may, at the time of the invoice, use an agreed-upon reasonable allocation method to apportion the service among locations, though this will be subject to review by the Department. If the precise location is not exactly known at the time of purchase, the service should be sourced to the business location of the purchaser. If the location of the temporary staffing service is unknown, the sale should be sourced to the address for the purchaser that is available to the seller if done in good faith.

Digital Automated Services (DAS) exclusions: A digital automated service is defined as any service that is transferred electronically and uses one or more software applications. Under ESSB 5814, the legislature eliminated several prior exclusions from the definition of DAS. These deletions were primarily for services made taxable in ESSB 5814—but also included those for services involving primarily human effort. However, the Department explained that the legislature did not intend professional services to become taxable solely because representations of those professional services may be made electronically available through a DAS. The exclusion for sales between affiliated groups remains in effect, which means that digital products or digital automated services sold to members of an affiliated group are not considered retail sales, provided certain conditions are met; rather, they remain as a Service and Other Activities category for B&O purposes.

Next steps and contacts

The Department's interim guidance remains effective until superseded by final guidance or legislative changes. KPMG will continue to monitor updates in Washington as they occur and will keep taxpayers informed of any changes. For additional questions or further information, please contact [Michele Baisler](#) or [Alex Low](#).