

Idaho exempts cloud computing from sales tax

April 12, 2013

In brief

Effective April 3, 2013, certain types of software accessed via the internet or other wireless media are exempt from Idaho's sales and use tax. Idaho taxpayers should be aware that this represents a reversal of the state's prior treatment. [[Idaho House Bill 243](#), enacted 4/3/13]

In detail

Under the new law, "application software accessed over the internet or through wireless media" is excluded from the definition of tangible personal property. Such software is defined as the "right to use computer software where the software is accessed over the internet or through wireless media from a location owned or maintained by the seller or an agent of the seller and is not loaded and left at the user's location." The exclusion does not apply to remotely accessed

software if its primary purpose is for entertainment or if the software is also offered for sale in a storage media or by electronic download.

The law change appears to exempt uses of software in the 'cloud' that are equivalent to the provision of a service. Such software is controlled by the provider and the user has limited rights with no ability to modify or transfer the software. Without a 'transfer,' the software does not easily fall within a traditional definition of

a transaction subject to sales or use tax.

The takeaway

This new law represents a change in the Idaho Tax Commission's treatment of cloud computing. It should be noted that remotely accessed entertainment software (e.g., online games) and remotely accessed canned software that can also be purchased in tangible form or electronically downloaded remain taxable.

Let's talk

If you have any questions regarding cloud computing in Idaho or in other states, please contact:

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