



This Week in State Tax (TWIST)

January 21, 2025



Colorado: Department Drafting Rule on “Mainframe Computer Access”

The Department of Revenue has put forth a long-awaited draft rule regarding the sales tax treatment of “mainframe computer access” in the Rocky Mountain State. The draft rule sets forth examples of taxable and nontaxable mainframe access, as well as guidance for sourcing transactions involving access and dealing with mixed transactions. The draft rule will be the subject of a [public working group meeting](#) on February 20, 2025.

Colorado law includes the “amount charged for mainframe computer access” within the definition of tangible personal property on which sales tax is imposed. Mainframe computer access is further defined as “access to computer equipment for the purpose of storing or processing data” but does not include access to computer equipment for the purpose of “examining or acquiring data maintained by the vendor.” Access to computer equipment incident to electronic computer software delivery or incident to the use of computer software hosted by an application service provider are further excluded from the definition of mainframe computer access.

The draft rule builds on this framework by providing a general statement that sales of mainframe computer access are considered the lease or rental of computer equipment for the purpose of storing or processing data and are sales of tangible personal property subject to Colorado and state-administered local sales taxes if sourced to a location in the state, unless otherwise exempted. Examples of taxable access provided in the draft include storage of security video footage on a provider’s hardware, storage of a law firm’s electronic documents on a provider’s hardware which can be accessed by the firm’s employees from anywhere, and a data scientist’s payments to a provider for access to ‘the cloud’ to run complex algorithms. Examples of nontaxable access because they involve examining or acquiring data of the vendor include access to real-time and historical market data that allows data base queries, creation of custom reports, and other search and filter options. Likewise, access to an online legal research service that allows queries and downloads from various sources is identified as nontaxable. The rule also provides examples of nontaxable sales of computer software or accessed software services, including use of an online version of word processing software without downloading or installation and a cloud-based subscription to software allowing timekeeping and payroll services.

The sourcing of transactions involving mainframe computer access are governed by the rules for lease transactions, and as such, are generally sourced to the location of the computer equipment that is accessed for the storing or processing data. Finally, the draft rule provides guidance as to the treatment of mixed transactions involving mainframe computer access and either electronic software delivery or software hosted by an application service provider. For further information on [Special Rule 46](#), please contact [Steve Metz](#).

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