

This Week in State Tax (TWIST)

April 14, 2025



Washington State: DoR Issues Advisory on Software Maintenance Agreements

The Washington State Department of Revenue (Department) recently issued an Excise Tax Advisory (ETA) providing guidance on application of the Multiple Points of Use (MPU) sales tax exemption to software maintenance agreements. Maintenance agreements typically require software vendors to provide technical support and updates for existing software products. They often include a mix of taxable products (e.g., software updates) and nontaxable services (e.g., help desk support). The Department terms such agreements as Mixed Element Software Maintenance Agreements (MESMAs). The ETA explains that retail sales tax generally applies to MEMSAs when prices are not state separately for various products and services, unless the retail-taxable portion of the agreement is minimal (10 percent or less of the total purchase price), in which case the retail sales tax may not apply.

The MPU exemption offers a retail sales tax exemption on the non-Washington portion of specific products that are concurrently available for use at multiple locations, both inside and outside Washington. Products eligible for MPU treatment include digital goods, prewritten software, remotely accessed prewritten computer software, digital automated services, and digital codes. For a MESMA to qualify for the MPU exemption, it must meet the following criteria: (1) the MESMA must include one or more MPU-eligible products that are concurrently available for use inside and outside Washington; (2) the non-retail taxable products must relate to the MPU-eligible products, for example by providing support, maintenance, or improvements for such products; and (3) the MESMA must not contain any retail-taxable products other than the MPU-eligible products available for concurrent use. Note that non-retail taxable products in a MESMA are considered to "relate" to an MPU-eligible product only if the non-retail taxable products provide support, maintenance, or improvements to the MPU-eligible products. The advisory provides illustrative examples to clarify these criteria. For instance, a qualifying MESMA might include updates for prewritten software used concurrently in multiple locations and related help desk support. Conversely, a MESMA that includes prewritten software updates and unrelated hardware support does not qualify for use of the MPU.

To claim the MPU exemption, businesses should provide the seller with a completed Digital Products and Remote Access Software Exemption Certificate demonstrating the concurrent use of MPU-eligible products inside and outside Washington. This documentation will also be used to support the use tax apportionment calculation based on the users of the MPU-eligible products of the MESMA in Washington compared to users of the MPU-eligible products everywhere. Contact [Michele Baisler](#) for more information on [Excise Tax Advisory 3242.2025](#).

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