



# This Week in State Tax (TWIST)

August 11, 2025



## Virginia: Commissioner rules that software and maintenance contracts are presumed to be delivered electronically

As part of a determination following the appeal of a sales tax audit, the Virginia Tax Commissioner recently ruled that the Department of Taxation (Department) was updating its documentation standards regarding software delivery. Virginia law provides that software is considered taxable tangible personal property if it is delivered in tangible form; if it is delivered via electronic transmission, it is exempt. Historically, the Department imposed a rebuttable presumption that software was conveyed in tangible form and therefore subject to sales and use tax. To overcome the presumption, taxpayers were required to provide documentation in the form of a sales invoice, contract, or other sales agreement expressly certifying that the software was delivered electronically and that no tangible medium was included in the transaction.

The determination notes that the process of delivering computer programs and software updates has evolved significantly since the Commonwealth adopted its presumption. The widespread use of the internet and other technologies has transformed how software is bought and sold, rendering the prior presumption outdated. Going forward, the Department will no longer require taxpayers to provide documentation expressly certifying the electronic delivery of software. Instead, software will be presumed to be electronically delivered unless documentation indicates otherwise or the software is provided in connection with the sale of tangible personal property. The Department may request documentation demonstrating that software was not provided in connection with the sale of tangible personal property.

The determination setting forth the new policy involved several purchases of software, maintenance contracts, licensing fees, and setup fees. Upon review, invoices related to electronically delivered software and maintenance contracts not related to tangible personal property were removed from the audit. Notably, though, the Department reaffirmed that maintenance contracts involving both hardware and software remain taxable, and software provided in conjunction with tangible personal property is still subject to tax. Invoices held to be taxable included computers and network switches with installed software and maintenance contracts. For more information on [Virginia Public Document Ruling No. 25-98](#), contact [Jeremy Jester](#).

Learn about us:



[kpmg.com](https://www.kpmg.com)

The following information is not intended to be "written advice concerning one or more federal tax matters" subject to the requirements of section 10.37(a)(2) of Treasury Department Circular 230.

The information contained herein is of a general nature and based on authorities that are subject to change. Applicability of the information to specific situations should be determined through consultation with your tax adviser.

© 2025 KPMG LLP, a Delaware limited liability partnership and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved. USCS011027-1AG