



This Week in State Tax (TWIST)

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Kentucky: DoR addresses intersection of prewritten software and AI components

New guidance issued by the Kentucky Department of Revenue addresses the sales tax treatment of prewritten computer software that includes artificial intelligence (AI) components. Under Kentucky law, prewritten software is classified as tangible personal property and is taxable whether delivered in tangible form or accessed remotely as software-as-a-service. “Custom software” (*i.e.*, software specifically designed and developed to the specifications of a single purchaser) is not considered prewritten software and is therefore exempt from taxation. Prewritten software that is merely modified or enhanced on behalf of a specific customer is taxable, but separately stated charges for the modifications or enhancements are not subject to tax.

The guidance clarifies that the presence of AI features does not necessarily qualify a product as custom software. Although many AI components can alter their output based on the data or prompts received from users, the department does not consider this sufficient to meet the specific criteria to be considered custom software. Contact [Dave Perry](#) with questions on the [Winter 2025/26 Edition of Sales Tax Facts](#).

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