

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
OFFICE OF THE CHIEF FINANCIAL OFFICER  
OFFICE OF TAX AND REVENUE



January 2, 2019

**OTR NOTICE 2019-01**

**TAXATION OF DIGITAL GOODS IN THE DISTRICT OF COLUMBIA**

The District of Columbia Council has passed legislation amending the sales and use tax treatment of digital goods sold or used in the District. [See Internet Sales Tax Emergency Amendment Act of 2018](#), approved on December 31, 2018 (D.C. Bill 22-1070).

Under D.C. Code § 47-2002(a), a sales tax is imposed upon all vendors for the privilege of making a “retail sale” or “sale at retail” of tangible personal property and certain selected services. Under D.C. Code § 47-2202(a), a use tax is imposed on the use, storage, or consumption of any tangible personal property and service sold or purchased at retail.

As of January 1, 2019, D.C. Code §§ 47-2001(n)(1)(BB) and 47-2201(a)(1)(R) now include the sale of or charges for digital goods in the definition of “retail sale” and “sale at retail”. For purposes of the sales and use tax, D.C. Code § 47-2001(d-1) defines the term “digital goods” to mean digital audiovisual works, digital audio works, digital books, digital codes, digital applications and games, and any other otherwise taxable tangible personal property electronically or digitally delivered, whether electronically or digitally delivered, streamed or accessed and whether purchased singly, by subscription or in any other manner, including maintenance, updates and support.

- Digital audiovisual works: a series of related images that, when shown in succession, impart an impression of motion, together with accompanying sounds. “Digital audiovisual works” includes motion pictures, musical, videos, news and entertainment programs, and live events.
- Digital audio works: works that result from the fixation of a series of musical, spoken, or other sounds, that are transferred electronically, including prerecorded or live songs, music, readings of books or other written materials, speeches, ringtones, or other sound recording.
- Digital books: works that are generally recognized in the ordinary and usual sense as books that are transferred electronically, including works of fiction, nonfiction, and short stories.

- Digital code: a code that provides the person who holds the code a right to obtain an additional digital good and that may be obtained by any means, including tangible forms and electronic mail, regardless of whether the code is designated as song code, video code, or book code. “Digital code” includes codes used to access or obtain any specified digital goods, or any additional digital goods that have been previously purchased, and promotion cards or codes that are purchased by a retailer or other business entity or use by the retailer’s or entity’s customers.
- Digital applications and games: any application or game, including add-ons or additional content that can be used by a computer, mobile device, or tablet notwithstanding the function performed.

Additionally, beginning January 1, 2019, D.C. Code § 47-2501.01(a), the video gross receipts tax, has been amended to exclude sales of services taxable as digital goods. As a result, as of January 1, 2019, sales of streaming video services will be subject to the sales tax, and no longer subject to the gross receipts tax under D.C. Code § 47-2501.01(a).

Below is a chart delineating the sales taxability of a variety of digital goods as of January 1, 2019:

<b>Digital Good</b>	<b>Subject to Sales Tax?</b>	<b>Rationale</b>
Applications	Yes	These sales are taxable digital goods. D.C. Code § 47-2001(d-1).
Software – Canned	Yes	These sales are taxable as data processing services. D.C. Mun. Regs. §9-474.4.
Software – Prepackaged	Yes	These sales are taxable as data processing services. D.C. Mun. Regs. §9-474.4.
Software – Customized	Yes	These sales are taxable as data processing services. D.C. Mun. Regs. §9-474.4.
Digital News and Digital Periodicals	Yes	These sales are taxable as “the furnishing of general or specialized news or current information” and as “news clipping service” under D.C. Code §47-2001(n)(1)(N)(ii).
Digital Books	Yes	These sales are taxable digital goods. D.C. Code § 47-2001(d-1).
Digital Audio Books	Yes	These sales are taxable digital goods. D.C. Code § 47-2001(d-1).
Digital Music Downloads and Streaming	Yes	These sales are taxable digital goods. D.C. Code § 47-2001(d-1).
Digital Video Downloads	Yes	These sales are taxable digital goods. D.C. Code § 47-2001(d-1).
Streaming Video Services	Yes	These sales are taxable digital goods. D.C. Code § 47-2001(d-1).

Please note that the new legislation did not affect the taxation of software in the District. Under D.C. Mun. Regs. 9 §474.4, the sale, rental, or maintenance of computer software continues to be subject to sales tax in the District whether the software is canned, prepackaged, or customized. Taxable computer software and software services include system software, application software, computer programming, software modification, or software updating. The new legislation does not affect D.C. Mun. Regs. 9 §474.4.

This Notice supersedes prior OTR Notice 2017-06.

Questions should be directed to the Office of the General Counsel at (202) 442-6500.