

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



October 5, 2017

OTR NOTICE 2017-06

TAXATION OF DIGITAL GOODS IN THE DISTRICT OF COLUMBIA

A. Sales of Digital Goods

A sales tax is imposed under D.C. Code § 47-2002(a) upon all vendors for the privilege of making a “retail sale” or “sale at retail” of tangible personal property and certain selected services. For sales tax purposes, “tangible personal property” means corporeal personal property of any nature. D.C. Code Ann. §47-2001(s). A variety of services are also subject to District sales tax law, including data processing services and information services.

While sales of digital goods will not be considered sales of tangible personal property for District sales tax purposes, those sales of digital goods which constitute the sale of a taxable service will be subject to tax.

“Data processing services” are defined under D.C. Code §47-2001(n)(1)(N)(i). Further guidance is provided in D.C. Mun. Regs. §9-474.4, which states: “gross receipts from the sale, lease or rental, or maintenance of any computer software shall be subject to the tax regardless of whether the software is canned, prepackaged or customized.” Examples of taxable computer software and software services include system software, application software, computer programming, software modification, and software updating. *Id.*

“Information services” are defined under D.C. Code §47-2001(n)(1)(N)(ii) as information that is gathered, maintained, or compiled and made available to the public or to a segment of industry for consideration.

Sales and use tax is imposed at the time of a retail sale of tangible personal property or of taxable services.

Below is a chart delineating the sales taxability of a variety of digital goods:

Digital Good	Subject to Sales Tax?	Rationale
Applications	Yes	These sales are taxable as data processing services. D.C. Mun. Regs. §9-474.4.
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	No	Sales of digital books are not subject to District sales and use tax as such sales are not of tangible personal property or of taxable services.
Digital Audio Books	No	Sales of digital audio books are not subject to District sales and use tax as such sales are not of tangible personal property or of taxable services.
Digital Music Downloads and Streaming	No	Sales of digital music are not subject to District sales and use tax as such sales are not of tangible personal property or of taxable services.
Digital Video Downloads	No	Sales of digital videos are not subject to District sales and use tax as such sales are not of tangible personal property or of taxable services.
Streaming Video Services	See Below	See Below

B. Streaming Video Services

Streaming video services are not subject to sales tax in the District of Columbia. Streaming video service providers are subject to the gross receipts tax on the provision of such services.

For purposes of this notice, “streaming video” refers to video content sent in compressed form over the internet and played immediately, rather than being saved to a hard drive.

Sales Tax

A sales tax is imposed under D.C. Code § 47-2002(a) upon all vendors for the privilege of making a “retail sale” or “sale at retail” of tangible personal property and certain selected services. For sales tax purposes, “tangible personal property” means corporeal personal property of any nature. D.C. Code Ann. §47-2001(s). Streaming video services are not tangible personal property. A variety of services are also subject to District sales tax law, including delivery services, certain data processing services, and information services. However, the provision of streaming video services does not meet the definition of any of the District’s services subject to sales tax. Accordingly, streaming video service is not subject to sales and use tax.

Gross Receipts Tax

Under D.C. Code § 47-2501.01(a), each company that sells or charges for “cable television service, satellite relay television service, and any and all other distribution of television, video, or radio service with or without the use of wires provided to subscribers or paying customers” is subject to gross receipt tax. Streaming video services are the distribution of a “video service” for purpose of the gross receipt tax under D.C. Code § 47-2501.01.

As streaming video services constitute distribution of video meeting the definition in D.C. Code § 47-2501.01(a), service providers will be required to follow all reporting requirements of D.C. Code § 47-2501.01 regarding the gross receipts tax, including filing a report “indicating the amount of its gross receipts for the preceding calendar month from the sale of or charges for the services within the District.” D.C. Code § 47-2501.01(a)(1). The tax is imposed at a rate of 10% of gross receipts. D.C. Code § 47-2501.01(a)(3).

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