

117-330 Automatic Data Processing

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Automatic Data Processing Equipment – Hardware

Receipts from the sale or lease of automatic data processing equipment are subject to the sales or use tax. Also includible in the tax base are charges for the sale or lease of assembler, compiler, utility and other prewritten programs furnished with such equipment.

Automatic Data Processing Programs – Software

A computer program is the complete sequence of automatic data processing instructions necessary to enable automatic data processing equipment to function in resolving a particular problem. These instructions, commonly referred to as software, may be recorded on or in paper or magnetic tape, cards, disc or drum or may consist of written procedures such as program instructions listed on coding sheets. Programs are, in essence, the parts, attachments or instructions necessary to enable personnel to produce the results desired from the automatic data processing system.

Such programs may be prewritten (canned) or custom designed for a particular installation.
Prewritten Programs

The tax applies to total charges for coding, punching or otherwise reproducing prewritten programs including charges for the tapes or other properties when furnished by the seller or reproducer.

The temporary transfer of possession of a program for a consideration for the purpose of direct use by the customer or to be reproduced by the customer on or into tapes or other properties is a lease of tangible personal property subject to the tax on the total amount paid even though the consideration may be labeled a license fee or royalty payment; and even though royalty payments or payments for a license to use may be paid long after the original programs are returned to the seller.

Custom Programs

Custom programs are programs prepared to the special order of a customer, the gross proceeds therefrom being subject to the tax. Also considered to be custom programs are sales of programs developed through modification of existing prewritten programs to meet a customer's specific needs. Charges to modify and adapt these programs to a customer's equipment (including testing) or translating a program to a language compatible with a customer's equipment are services that are a part of the sale price of tangible personal property and likewise subject to the tax.

HISTORY: Added by State Register Volume 26, Issue No. 6, Part 2, eff June 28, 2002.