

Sales Tax on Services

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History of sales tax

History of sales tax

- Mississippi was the first state to enact a general sales tax in 1930.
- By 1935, during the Depression and plummeting property tax revenues, half of the states had codified a sales tax.
- Vermont enacted a sales tax in 1969 in Act 144, making it the last state of the 45 states with a sales tax to do so.

History of sales tax

- Originally, states' sales taxes only applied to goods or commodities (“tangible personal property”). The rationales at the time were:
 - goods constituted a larger portion of household consumption than services
 - wealthier people bought more goods
 - goods would be easier to quantify
 - taxing services was equated to taxing jobs

History of sales tax

- Over time, states' sales tax bases have expanded to include other taxable sales, including charges for services.
- This has coincided with shifts in consumer behavior to increased consumption of services and less consumption of goods., i.e., a “service-based economy.”

History of sales tax

- There are different types of sales tax structures in the United States, but the predominant structure is a tax on retail sales.
 - In other words, a single levy that only applies to final sales to customers and, in theory, excludes business inputs by not taxing sales for resale.

Current Vermont Law

Current Vermont law

- Vermont sales tax applies to retail sales of tangible personal property and any enumerated charges, unless an exemption applies. 32 V.S.A. § 9771; see, also 32 V.S.A. § 9773 for use tax.
- Vermont's definition of "retail sale" is "any sale, lease, or rental for any purpose other than for resale, sublease, or subrent". 32 V.S.A. § 9701(5).
 - This excludes sales for resale or at wholesale, but does not exclude all services or business inputs from taxation.

Current Vermont law

Examples of taxable services under 32 V.S.A. § 9771

- Public utility services, including gas and electricity
 - but excluding water and transportation
- Phone / telecommunications services
 - but excluding coin-operated telephone service, paging service, private communications service, or value-added non-voice data service
- Cable TV, online streaming

Current Vermont law

Examples of taxable services under 32 V.S.A. § 9771, cont.

- Rentals, including ski equipment, car rentals
- Admissions to entertainment events, including:
 - athletic events, exhibitions, dramatic and musical performances, motion pictures, golf courses, and ski areas
 - access to any game or gaming or amusement machine, apparatus, or device
 - but excluding video game, pinball, musical, vocal, or visual entertainment machines that are operated by coin, token, or bills
- Photo or textile printing and finishing

Current Vermont law

- The list of taxable services is not exhaustive.
- Other services are taxable in Vermont under 32 V.S.A. § 9771 and the Sales and Use Tax Regulations, Vt. Reg. § 1.9701.

Other states' taxation of services

Other states' taxation of services

- All states with a sales tax apply it to at least some services (including Vermont).
- 4 out of the 5 states that do not have a sales tax (Alaska, Delaware, Montana, New Hampshire, and Oregon) still tax some services provided to consumers (albeit not via a sales tax).
 - E.g., NH taxes services such as phone and internet service, car rentals, and hotels.

Other states' taxation of services

- HI, WA, SD, and NM tax almost every service, including veterinary care and some professional services (for example: financial advising).
 - Of note: HI has a “general excise tax” and NM has a “gross receipts tax” on businesses – not a sales tax – which businesses may then pass onto customers.
- Other states like WV tax services generally, but exempt many services like professional (legal and health care), contracting, personal, and employment services.

Other states' taxation of services

- In 2022, KY, a Streamlined-member state like Vermont, expanded its sales tax base to tax 35 new services. See, 22RS HB8.
- However, most states do not tax personal services in their sales tax base, such as dry cleaning, fitness, barber, and veterinary care services.

Other states' taxation of services

- According to the most recent Federation of Tax Administrators (FTA) survey in 2017 (FTA has been conducting periodic surveys since 1990) of each state's taxation of services:
 - the **most** common services that states tax are: public utilities and admissions to entertainment, followed by online services and fabrication, repair, and installation.
 - the **less** common services that states tax are, in descending order: computer services, personal services, business services, and other services.
 - the **least** common services that states tax are professional services, which include legal, financial, and health care services.

FTA 2017 survey: <https://www.statetaxissues.org/services/2017/>

Past studies and reports

Past studies and reports on taxing services

- Act 57 of 2015, Sec. 94, required 2 reports to be filed with the General Assembly on the fiscal impact of extending Vermont's sales and use tax to a broader range of consumer services.
 - The first report was required from the Vt. Dept. of Taxes to explain how it would implement an expanded sales tax base and to model 2 scenarios designed to raise \$15 million and \$30 million in revenue in Vermont on an annual basis. The first report was directed to exclude business-to-business service charges.

Past studies and reports on taxing services

- The second report required in Act 57 of 2015 was from economists for the legislative and executive branches, with the assistance of the Joint Fiscal Office and the Vt. Dept. of Taxes. This report analyzed the short-and long-term economic impacts to the State of extending the sales tax to 5 sample services and contrasted those impacts with the short-and-long term projections of Vermont's current sales and use tax revenues without the changes in the proposal.

Past studies and reports on taxing services

- 2009 (Special Session) Act. No. 1, Sec. H.561 created the Vt. Blue Ribbon Tax Structure Commission.
 - The Commission's final report recommended levying the general sales tax on all consumer-purchased services with limited exceptions for certain health and education services and business-to-business service transactions. See, recommendation 2A.

Past studies and reports on taxing services

- Michael Mazerov from the Center on Budget and Policy Priorities presented a summary of issues and considerations for taxing services in Vermont to the Blue Ribbon Tax Structure Commission in 2010. Mr. Mazerov's conclusions were the following:
 - Taxing services can help address a fiscal gap,
 - expanding the sales tax base is preferable to increasing the sales tax rate on equity grounds
 - expansion is essential to avoid long-term erosion.

Past studies and reports on taxing services

- [2018 \(Special Session\) Act 11](#), Sec. H.17 created the Vermont Tax Structure Commission, which made these recommendations in its [2021 report](#):
 - Expand the sales tax base to all consumer-level purchases of goods and services except:
 - health care, casual consumer-to-consumer transactions, and business inputs.
 - Use the gain from broadening the base to protect low-income Vermonters and reduce the sales tax rate to 3.6%.

Past studies and reports on taxing services

- [2023 RAND Report](#) on options to fund child care proposed higher tax rates on certain services, either a limited or an expanded list.
 - Although it was not explicitly stated, different rates on different services would require creating new, separate taxes distinct from the sales tax in order to remain in compliance with the multistate Streamlined Sales and Use Tax Agreement. Vermont is a member state of the Streamlined Agreement, which requires states to impose only one rate on taxable charges (one state and one local). [SSUTA](#), as amended Dec. 22, 2022, Sec. 308(A)-(C).