

DRAFT VENDOR-HOSTED PREWRITTEN COMPUTER SOFTWARE

(dr req 20-XXX – draft 1.1)
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1 Sec. 1. 32 V.S.A. § 9701(60) is added to read:

2 (60) “Vendor-hosted prewritten computer software” means prewritten
3 computer software that is accessed through the internet or a vendor-hosted
4 server regardless of whether the access is permanent or temporary and
5 regardless of whether any downloading occurs.

6 Sec. 2. 32 V.S.A. § 9741 is amended to read:

7 § 9741. SALES NOT COVERED

8 Retail sales and use of the following shall be exempt from the tax on retail
9 sales imposed under section 9771 of this title and the use tax imposed under
10 section 9773 of this title.

11 * * *

12 (14) Tangible personal property ~~which~~ that becomes an ingredient or
13 component part of, or is consumed or destroyed or loses its identity in the
14 manufacture of tangible personal property for sale; machinery, ~~and~~ equipment,
15 and vendor-hosted prewritten computer software for use or consumption
16 directly and exclusively, except for isolated or occasional uses, in the
17 manufacture of tangible personal property for sale, or in the manufacture of
18 other machinery or equipment, parts, or supplies for use in the manufacturing
19 process; and devices used to monitor manufacturing machinery and equipment
20 or the product during the manufacturing process. Machinery, ~~and~~ equipment,
21 and vendor-hosted prewritten computer software used in administrative,

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1 managerial, sales, or other nonproduction activities, or used prior to the first
2 production operation or subsequent to the initial packaging of a product, shall
3 not be exempt from tax, unless such uses are merely isolated or occasional or
4 unless the machinery used for initial packaging is also used for secondary
5 packaging as part of an integrated process. Machinery and equipment shall not
6 include buildings and structural components thereof. As used in this
7 subdivision, it shall be rebuttably presumed that uses are not isolated or
8 occasional if they total more than four percent of the time the machinery, ~~or~~
9 equipment, or vendor-hosted prewritten computer software is operated. For
10 the purposes of this subsection, “manufacture” includes extraction of mineral
11 deposits, the entire printing and bookmaking process, and the entire
12 publication process.

13 * * *

14 (54) Vendor-hosted prewritten computer software that is used
15 directly and exclusively, except for isolated or occasional uses, in the digital
16 manufacture or design of vendor-hosted prewritten computer software for sale.
17 Vendor-hosted prewritten computer software used in administrative,
18 managerial, sales, or other nondesign activities, shall not be exempt from tax,
19 unless such uses are merely isolated or occasional. As used in this subdivision,
20 it shall be rebuttably presumed that uses are not isolated or occasional if they
21 total more than four percent of the time the vendor-hosted prewritten computer

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1 software is operated. For the purposes of this subdivision, “digital
2 manufacture” includes the entire software design process.

3 Sec. 3. 32 V.S.A. § 9771 is amended to read:

4 § 9771. IMPOSITION OF SALES TAX

5 Except as otherwise provided in this chapter, there is imposed a tax on retail
6 sales in this State. The tax shall be paid at the rate of six percent of the sales
7 price charged for but in no case shall any one transaction be taxed under more
8 than one of the following:

9 * * *

10 (7) tangible personal property to an advertising agency for its use in
11 providing advertising services or creating advertising materials for transfer in
12 conjunction with the delivery of advertising service; ~~or~~

13 (8) specified digital products transferred electronically to an end user
14 regardless of whether for permanent use or less than permanent use and
15 regardless of whether or not conditioned upon continued payment from the
16 purchaser; or

17 (9) vendor-hosted prewritten computer software.

18 Sec. 4. 32 V.S.A. § 9773 is amended to read:

19 § 9773. IMPOSITION OF COMPENSATING USE TAX

20 Unless property or telecommunications service has already been or will be
21 subject to the sales tax under this chapter, there is imposed on every person a

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1 use tax at the rate of six percent for the use within this State, except as

2 otherwise exempted under this chapter:

3 * * *

4 (4) specified digital products transferred electronically to an end user;

5 ~~and~~

6 (5) telecommunications service except coin-operated telephone service,

7 private telephone service, paging service, private communications service, or

8 value-added non-voice data service; and

9 (6) vendor-hosted prewritten computer software.

10 Sec. 5. REPEAL

11 2015 Acts and Resolves No. 51, Sec. G.8 (prewritten software accessed

12 remotely) is repealed.

13 Sec. 6. EFFECTIVE DATE

14 This act shall take effect on July 1, 2020.