



Vermont Technology Alliance
The Voice for Technology in Vermont

Testimony for Discussion of Sales Tax on Cloud Services House Ways & Means Committee, January 22, 2020

Jeff Couture
Executive Director
Vermont Technology Alliance

Thank you for the opportunity to discuss the proposal to apply the sales tax to online software services.

The Vermont Technology Alliance is a business association with a mission to support, promote, and grow technology jobs and technology businesses in Vermont. We have more than 200 members from throughout the state representing Vermont's tech and tech-focused businesses, including software, IT, energy, manufacturing and telecommunications, as well as businesses and organizations that work with or support Vermont's tech ecosystem.

Vermont's tech sector creates some of the state's highest paying jobs and brings hundreds of millions of dollars of revenue into Vermont. The average wage for a Vermont tech job is \$76,000. STEM jobs (science, technology, engineering and math) make up a quarter of Vermont employment, and 40% of all wages, totaling more than \$6 billion annually.

As a bright spot in Vermont's economy, we should do all we can to support and grow the sector.

It is with this perspective that the Vermont Technology Alliance opposes applying the Vermont sales tax to online services, or specifically software as a service (SaaS), commonly referred to as the Cloud Computing Tax.

The Vermont Technology Alliance is concerned with the impact of an online services tax on Vermont businesses that offer and sell software as a service, and the many more that depend on software services for their businesses.

Our main issues are:

- Concern and confusion about an online services tax
- Impact to Vermont businesses that *offer* software as a service
- Impact to Vermont businesses that *use* software as a service
- Perception of Vermont as a state that supports and welcomes tech businesses

Concern and Confusion about Online Services Tax

A tax on online software services creates uncertainty for tech businesses and may be difficult to measure and track. What is being taxed? How will it affect business operations? What are the additional costs to track, report, and administer the tax?

The proposal is to tax software as a service; however the categories Software as a Service (SaaS), Infrastructure as a Service (IaaS), and Platform as a Service (PaaS) are not always clearly defined by the industry or in law, and often are marketing terms used interchangeably.

Software as a Service is more than downloading a copy of TurboTax. The problem in taxing it is that it's not always easy to separate the service from the software. It is not always clear whether a tangible product has been delivered, or whether the concept of delivery even applies. Some questions it raises include:

- Is the SaaS business involved in the sale or license of software or the performance of a service?
- Is SaaS considered the sale of a service, and if so, are those services taxable?
- Is SaaS considered the sale of software, and if so, is it canned or custom software?

This is particularly a concern for businesses offering online legal, accounting, payroll, HR, marketing, sales and other software-based services. It could also affect the emerging Blockchain businesses that Vermont is trying to attract.

Impact to Vermont Businesses that Offer Software as a Service

There are a growing number of Vermont businesses that sell software as a service, where the service offered and the software used is closely interwoven.

A few recent Vermont startup business examples include:

- Reconciled – online bookkeeping service
- EZ-Probate – online estate probate service
- Faraday – artificial intelligence marketing service
- Social Sentinel – Social media security monitoring service
- DealerPolicy – Online auto insurance service

Reconciled, for example, offers online accounting and bookkeeping services. It provides its customers with cloud-based applications and then you work online with a bookkeeper. Bookkeeping services in Vermont are not subject to the sales tax. However, a SaaS tax could go to the heart of what this business offers, because it is done online and not in person.

Vermont tech and other businesses will likely need to incur additional costs for tracking and managing a new sales tax.

Whether a business is selling or buying software as a service, the impact will be greater on Vermont's smaller and start-up businesses.

Impact to Vermont Businesses that Use Software as a Service

Most Vermont businesses – not just tech businesses – use and depend on software as a service to run their businesses. Sales, marketing, payroll, accounting, HR and other services are delivered online.

Examples of online services include:

- Quickbooks
- Microsoft Office 365
- Google GSuite
- Salesforce
- Square
- Shopify
- HubSpot
- Mail Chimp

Vermont businesses, whether small or large, using online services will bear the increased cost of the tax to their businesses. Some Vermont tech businesses pay thousands of dollars per month for online software

So while I am addressing this as a representative of Vermont's tech sector, the tax will ultimately affect businesses across *all* industry sectors.

Perception of Vermont as a State that Supports and Welcomes Tech Businesses

We are concerned that adding the tax creates a perception that Vermont is not fully welcoming or supportive of tech-focused and tech-enabled businesses – the exact type of businesses our state wants and needs.

While there are states that have some form of cloud computing tax, that doesn't mean that it is right for Vermont. Some of those states have a lower rate than Vermont's and many have a larger, more established tech sectors.

States without the tax may be more inviting to tech entrepreneurs and businesses. Nearly every state is trying to grow its tech sector and tech workforce, because of the economic benefit they provide. Vermont has some disadvantages in doing this, such as its relative smaller size, lack of capital, a small labor pool and broadband limitations.

Vermont cannot afford to have another reason not to base a tech business in Vermont. Instead, Vermont should be promoting itself as a state that *does not have a cloud computing tax and use it as an advantage* for attracting and keeping tech businesses.

Vermont's tech industry represents the types of jobs and businesses that represent Vermont's future. Let's create tax policies that boost, not hinder the success and growth this sector.