

PUBLICATION

Spotlight on SALT: Cloud Computing and State Taxation

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Cloud computing, which grants users the ability to access third-party software and services remotely, is becoming a leading means for enterprises and individuals to access information technology (IT). But just as electronic retail commerce raised (and continues to raise) a host of issues for states, businesses and consumers with respect to state taxation, cloud computing is raising even more questions about how states should and should not treat this remote and even virtual computing environment. For now, states and cloud computing vendors, hosting services and end users will need to fit the square peg of state sales and use taxes (developed for the bygone era of floppy disks), to the brave new world of the cloud.

In the article *Peering Through the Clouds of State Taxation: Software as a Service ("SaaS") Does Not Quite Fit Existing State Tax Regimes* (reprinted with permission of Bloomberg BNA), Nashville-based Baker Donelson state tax attorney Scott Smith focuses on the developing sales and use tax landscape for cloud vendors and users. This article originally appeared in the October 26, 2012 issue of Bloomberg BNA's Tax Management Weekly State Tax Report.

What is clear from this cloudy analysis is that states are applying conventional wisdom and their existing sales and use tax regimes applicable to computer software in a number of disparate ways either to treat cloud transactions as exempt service transactions or to treat such transactions as taxable software or service transactions. The result is a hodge-podge of state tax treatment that cloud vendors and users have no choice but to attempt to navigate.

If you have questions regarding state sales and use tax treatment of cloud computing after reviewing the article, please contact any attorney in the Firm's Tax Department.