

Save Time & Eliminate Guesswork with Effective Tax Research



SALES TAX
INSTITUTESM

On-Demand Webinar



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Objectives

- Learn the Administrative Authority Hierarchy
- Understand how to interpret Statutes and Regulations
- Learn different ways to research sales tax statutes and regulations online
- Understand Boolean search operators and how they can enhance or change your research results
- Discover how to navigate state tax reference materials
- Learn the steps of a sales & use tax research project



Administrative Authority Hierarchy

Administrative Authority Hierarchy

- Key to understanding what will apply
- Understand priority and relevance to your jurisdiction
- Use results with most authority

Administrative Authority Hierarchy (cont.)

- US Supreme Court
 - Constitutional questions and issues between states
 - Apply to all states with consistent law
- State Court
 - Disputes between taxpayer and state
 - Valid in ruling state only but could be precedent in other states with similar laws
 - Understand specific state hierarchy and courts including administrative courts

Administrative Authority Hierarchy (cont.)

- State Statutes
 - Passed by legislature
 - Take precedence over other issued materials other than court decisions
 - Understand legislative intent
- State Administrative Rules/Regulations
 - Interpretations by Dept of Revenue
 - Typically favor the state
 - May not conform to legislation

Administrative Authority Hierarchy (cont.)

- Advisory Opinions/Letter Rulings
 - Issued by Department of Revenue
 - Issue specific
 - Blind vs. Disclosed
- Other Interpretations
 - Issued by states, organizations, publishers
 - May have little or no authority
 - May provide suggestions or commentary



Interpreting Statutes and Regulations

Interpreting Statutes and Regulations

- Intent of Law
 - Identifying and understanding the intent of a state's law is very important and will assist in understanding the document.
 - Courts often rely on the intent of the law in making their rulings on a case.
 - Reviewing the legislative history record can provide insight into the intent of the law.

Interpreting Statutes and Regulations (cont.)

- Definitions
 - Definitions can help interpret the intent of a statute or regulation.
 - Definitions can sometimes be found right in the document itself. Or a specific statute might contain a host of definitions that apply to other statutes and regulations.
 - Definitions should always be read and understood. A definition can substantially affect the taxability of an item or situation. For example, it might include a specific inclusion or exemption.

Interpreting Statutes and Regulations (cont.)

- General Rules
 - General rules are broad statements about the taxability of products, services, and other taxability scenarios.
 - Remember to take a step back and look for a general rule that might affect your answer.
 - For example, a retail store might not find a specific exemption for gift wrapping services, but a general rule may make it clear that all services are tax exempt.

Interpreting Statutes and Regulations (cont.)

- Specific inclusions / exemptions
 - Just as there are general rules, specific inclusions and exemptions are often found in statutes and regulations.
 - General rules and specific inclusions / exemptions are often used together in statutes and regulations.
 - Using our retail store example from above, the opposite can also be true. There might not be an umbrella exemption for services provided by retail stores for their customers, but a specific exemption may be found for gift wrapping services.

Interpreting Statutes and Regulations (cont.)

- Citation
 - Use official citation formats
 - Each state and each level of authority has its own citation format
 - Research tools proprietary citations are not official formats
 - ***The Bluebook: A Uniform System of Citation, 20th ed.***
 - <https://www.legalbluebook.com/>

Interpreting Statutes and Regulations (cont.)

- Citation Resources

- Legal Citation Guides and Abbreviation Lists:
<http://guides.library.harvard.edu/legal-citation>

- Introduction to Basic Legal Citation:
<http://www.law.cornell.edu/citation/>

- Reference Sources on General and Legal Writing in the Gallagher Law Library: <http://lib.law.washington.edu/ref/writing.html>

Interpretation Example

- Company A is thinking about building a manufacturing plant in Indiana or Illinois. In which state would company A save more money on the purchase of a forklift if it was going to be used 60% of the time in direct manufacturing and 40% in non-manufacturing processes?
 - What are key terms?
 - How to make the analysis?

Interpretation Example

- What are key terms?
 - Manufacturing
 - Forklift
 - Direct use
 - Non manufacturing use

Interpretation Example – Indiana

- STATE-REG, IN-TAXRPTR [Rule 45 IAC 2.2-5-8. Sales of Manufacturing Machinery, Tools and Equipment Used in Direct Production of Tangible Personal Property.]--

The exemption provided in this regulation [45 IAC 2.2] extends only to manufacturing machinery, tools and equipment **directly used by the purchaser in direct production.**

(c)(4) Because of the lack of an essential and integral relationship with the integrated production system in Example (1), the following types of equipment are **not exempt:**

(G) Equipment used to **remove raw materials** from storage prior to introduction into the production process or **to move finished products from the last step** of production.

Interpretation Example – Indiana

(f) Transportation equipment.

- (1) Tangible personal property used for moving raw materials to the plant prior to their entrance into the production process is taxable.
- (2) Tangible personal property used for moving finished goods from the plant after manufacture is subject to tax.
- (3) Transportation equipment used to transport **work-in-process or semi-finished materials to or from storage** is not subject to tax if the transportation is within the production process.
- (4) Transportation equipment used to transport work in process, semi-finished or finished goods **between plants** is taxable, if the plants are not part of the same integrated production process.

Interpretation Example – Indiana

(f)(4) Transportation equipment examples.

(3) A forklift is used **exclusively** to move **work-in-process** from a temporary storage area in a plant and to transport it to a production machine for processing. Because the forklift functions as an integral part of the integrated system comprising the production operations, it is **exempt**.

(4) A forklift is used **exclusively** to move **finished goods** from a storage warehouse and to load them on trucks for shipment to customers. The forklift is **taxable** because it is used outside the integrated production process.

(5) A forklift is regularly used **40%** of the time for the purpose described in **Example (3)** and **60%** of the time for the purpose described in **Example (4)**. The taxpayer is entitled to an **exemption equal to 40%** of the gross retail income attributable to the transaction in which the forklift was purchased.

Interpretation Example – Illinois

- STATE-REG, IL-TAXRPTR 86 Ill. Adm. Code 130.330. Manufacturing Machinery and Equipment.—
 - a) General. Notwithstanding the fact that the sales may be at retail, the Retailers' Occupation Tax does not apply to sales of **machinery and equipment used primarily in the manufacturing or assembling of tangible personal property** for wholesale or retail sale or lease.

Interpretation Example – Illinois

d) Primary Use

- 1) The law requires that machinery and equipment be **used primarily in manufacturing or assembling**. Therefore, machinery which is **used primarily in an exempt process and partially in a nonexempt manner would qualify for exemption**. However, the purchaser must be able to establish through adequate records that the machinery or equipment is used over **50 percent in an exempt manner** in order to claim the deduction.
- 2) The fact that particular machinery or equipment may be considered essential to the conduct of the business of manufacturing or assembling because its use is required by law or practical necessity does not, of itself, mean that machinery or equipment is used primarily in manufacturing or assembling.

Interpretation – Illinois vs Indiana

- Conclusion and thought process
 - Is transportation equipment included in the exemption?
 - Is mixed used equipment exempt?
 - Does one state have a better result than the other?



Research on the Internet

Research on the Internet – Commercial (Paid) Tools

- BNA Tax Management www.bna.com/tax
- Commerce Clearing House (CCH) www.cchgroup.com
- Thomson Checkpoint (RIA) <https://tax.thomsonreuters.com/products/brands/checkpoint/ria-wgl/>
- Industry Sales Tax Solutions www.industrysalestax.com
- Tax Analysts www.tax.org/
- Tax Notes www.taxnotes.com

Research on the Internet – Commercial (Paid) Tools (cont.)

- Vertex, Inc. www.vertexinc.com
- Lexis www.lexisnexis.com
- Avalara www.avalara.com
- CFS www.taxtools.com
- Parker Tax Pro Library www.parkertaxpublishing.com
- Westlaw
- Industry Resources

Commercial (Paid) Tools (cont.)

- Different Providers have different approaches and look/feel.
- Delivery Options are usually internet but there are still paper and cd products as well as e-books
- Frequency of updating to your subscription is key to know when doing the research to know how current the material will be
 - Printed books are often out of date before they are available
 - eBooks might not be updated as frequently as an online subscription and likely require an additional purchase

Commercial (Paid) Tools (cont.)

- Benefits
 - Comprehensive information in one place for statutes, regulations, cases and supplemental items
 - Hot Linking between references
 - Add on tools and resources
 - Ability to save your research easily
 - Ability to search multiple states at the same time
- Disadvantages
 - Cost

Research on the Internet: Associations

- Institute of Professionals in Taxation
<http://www.ipt.org/>
- Council on State Taxation
<http://www.cost.org/>
- Association for Computers and Taxation
<http://www.taxact.org/>
- Tax Executives Institute
<http://www.tei.org>
- Federation of Tax Administrators
<http://www.taxadmin.org/>
- National Assn of Unclaimed Property Administrators
<http://www.unclaimed.org>
- Multistate Tax Commission
<http://www.mtc.gov/>
- Streamlined Sales Tax
<http://www.streamlinedsalestax.org>
- Chambers of Commerce
- Industry Associations
- LinkedIn tax groups

Research on the Internet – Free Tools: Reference Link Pages

- Sales Tax Institute
<http://www.salestaxinstitute.com/>
- Sales Tax Support
<http://www.salestaxsupport.com/>
- Tax & Accounting Site Directory
<http://www.taxsites.com/state.html>
- Tax Connections
www.taxconnections.com

Research on the Internet – Free Tools: Department of Revenue Sites

- Links to all state web pages on Federation of Tax Administrators (www.taxadmin.org), Multistate Tax Commission (www.mtc.gov) and other web pages
- Google search for state department of revenue
- Revenue page may not have legislation so may need to go to the legislative body web page

Research on the Internet : Publications

- State Tax Notes
- Journal of State Taxation
- Journal of Multistate Taxation
- Newsletters from various accounting, law and consulting firms

Research on the Internet – Free Tools: Other

- Google
- Google Scholar
- Linked In
- Twitter
- You Tube
- Facebook



Boolean Search Operators

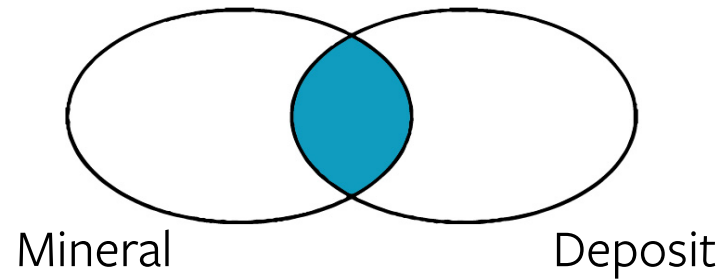
Natural vs Boolean

- Natural Language searching uses a relevance ranking to locate documents that are a **good match** your search terms.
 - It uses a complex algorithm that takes into account factors such as the number of documents that include your search terms and the number of times those terms appear in each document.
- Boolean Searching **matches your search criteria exactly** to documents in the collection.

Natural vs Boolean (cont.)

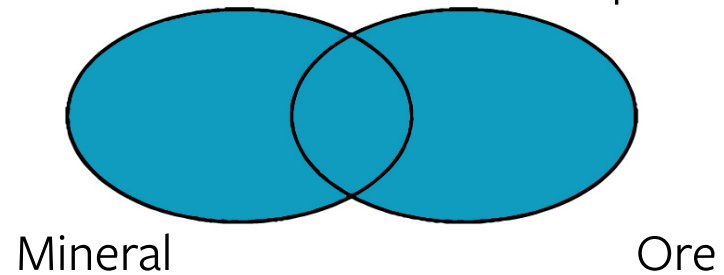
- Use Natural Language when:
 - Research is general or conceptual: Not specific
 - Know only a few basic terms
 - Only when you can't come up with terms and connectors
- So... use Boolean when you:
 - Need precise results
 - Know what you are looking for

Boolean Search Concepts



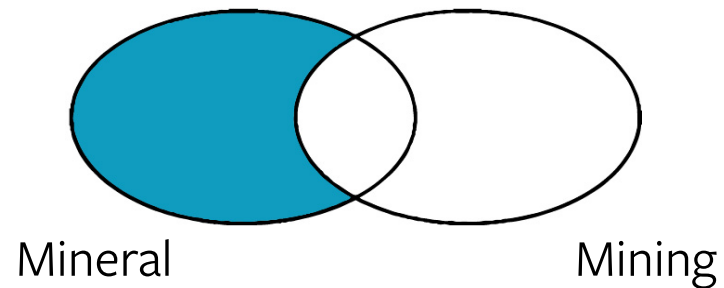
AND

Articles will contain mineral and deposit



OR

Articles will contain either mineral or ore



NOT

Articles will contain mineral deposit but not mining

Boolean Search Operators

- Inclusion (AND): manufacturing AND exemption
- Alternative (OR): manufacturing OR exemption
- Exclusion (NOT): manufacturing NOT exemption
- Exact phrase (“”): “manufacturing exemption”
- None: manufacturing exemption guidelines – reads as AND

Boolean Search Operators (cont.)

- Case sensitive exact phrase: ^"" - ^"IRS" or ^"ATI"
- Combination searches: () – “Trade Secrets” and (Discovery or Acquisition)
- Single Character Wildcard: * - asterisk replace* one letter - fact* would find facts
- Multiple Character Wildcard/Expander: ! – fact! Means factual or factor or facts or....

Boolean Search Operators (cont.)

- Proximity: N/x or /x or W/x – Motion n/4 approve
- Ordered Proximity: NP/x – Transcripts NP/5 Clerk
- Sentence Proximity: S/ - tax s/ portfolio
- Paragraph Proximity: “safe-harbor” p/ “capital expenses”
- At least: ATLx: ATL5(safe harbor)
- At Most: ATMx: ARM5 (safe harbor)

➤ Boolean Searches in Google



Use search operators to narrow down results

Search operators are words that can be added to searches to help narrow down the results. Don't worry about memorizing every operator - you can also use the [Advanced Search](#) page to create these searches.

Note: When you search using operators, don't add any spaces between the operator and your search terms. A search for `site:nytimes.com` will work, but `site: nytimes.com` will not.

Operator	What you can use it for
site:	Get results from certain sites or domains. For example, you can find all mentions of "olympics" on the NBC website, or any .gov websites. Examples: <code>olympics site:nbc.com</code> and <code>olympics site:.gov</code>
link:	Find pages that link to a certain page. For example, you can find all the pages that link to <code>google.com</code> . Example: <code>link:google.com</code>
related:	Find sites that are similar to a URL you already know. If you search for related sites to <code>the time.com</code> , you'll find other news publication sites you may be interested in. Example: <code>related:time.com</code>
OR	If you want to search for pages that may have just one of several words, include OR (capitalized) between the words. Without the OR, your results would typically show only pages that match both terms. Example: <code>world cup location 2014 OR 2018</code>
info:	Get information about a URL, including the cached version of the page, similar pages, and pages that link to the site. Example: <code>info:google.com</code>
cache:	See what a page looks like the last time Google crawled the site. Example: <code>cache:washington.edu</code>

➤ Boolean Search Example – “manufacturing exemption”

"manufacturing exemption"  

All News Images Maps Videos More Settings Tools

About 12,700 results (0.63 seconds)

[PDF] Publication 203 - Wisconsin Department of Revenue - State of Wisconsin
<https://www.revenue.wi.gov/DOR%20Publications/pb203.pdf> ▼
Jun 1, 2016 - A key making machine used to duplicate a key may qualify for the **manufacturing exemption** when used in the following manner: A purchaser ...

[PDF] Sales Use Taxes Industrial Processing Exemption - State of Michigan
www.michigan.gov/documents/SUExemptions&Deductions_36031_7.pdf ▼
The **manufacturing exemption** includes, but is not necessarily limited to, the following activities or tangible personal property when performed by and purchased ...

Manufacturing Sales Tax Exemption | Sales Tax Refund for ...
www.smith-howard.com/resources/.../sales-tax-refund-opportunities-manufacturers ▼
Consumable supplies, or tangible personal property consumed or expended during manufacturing, is now included in the **manufacturing exemption**.

Partial Exemptions for Manufacturers in CA (Do you Qualify?) | Sales ...
www.salestaxsupport.com/blogs/state/california/manufacturers-partial-exemption/ ▼
Dec 2, 2014 - "CA **Manufacturing Exemption** – Regs Final" from July 2014 and "Coming Soon – CA **Manufacturing Exemption**" from May 2014. If you have ...

Manufacturing Exemptions - Board of Equalization
https://www.boe.ca.gov/sutax/manufacturing_exemptions.htm ▼
The Board of Equalization administers California's sales and use, fuel, alcohol, tobacco, and other taxes and collects fees that fund specific state programs and ...
[Understanding your NAICS ...](#) · [Construction Contractor](#) · [Special Purpose Buildings](#)

➤ Boolean Search Example – manufacturing OR exemption

manufacturing or exemption

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About 3,640,000 results (0.70 seconds)

Manufacturing Exemptions - Board of Equalization
https://www.boe.ca.gov/sutax/manufacturing_exemptions.htm ▼
To ensure that tax is reported at the partial rate when filing a return, you will need to report the qualifying purchase amount on the line PURCHASES SUBJECT TO USE TAX as well as on the line SALES MADE SUBJECT TO THE MANUFACTURING AND RESEARCH AND DEVELOPMENT EQUIPMENT EXEMPTION. Understanding your NAICS ... · Construction Contractor · Special Purpose Buildings

[PDF] BOE-230-M - Board of Equalization - State of California
<https://www.boe.ca.gov/pdf/boe230m.pdf> ▼
MANUFACTURING, RESEARCH AND DEVELOPMENT EQUIPMENT ... This is a partial exemption from sales and use taxes at the rate of 4.1875% from July 1, ...

[PDF] Manufacturer's Sales and Use Tax Exemption Certificate for ...
dor.wa.gov/docs/Forms/Excstx/ExmptFrm/ManufacturesSisUseTxExmptCert_E.pdf ▼
the certificate for his/her records. Do not attach to the Combined Excise Tax Return. House Bill 1347 (Laws of 2011) clarifies those qualified to use the **manufacturing** machinery and equipment exemption, and updates the definition of "manufacturer," "manufacturing," and "manufacturing operation."

Manufacturing Exemptions - Texas Comptroller - Texas.gov
<https://comptroller.texas.gov/taxes/publications/94-124.php> ▼
The **manufacturing exemption** does not extend to contractors, persons who repair property belonging to others and service providers (such as data processors ...

Manufacturers exemption from Sales Tax on purchases
<https://revenue-pa.custhelp.com/.../manufacturers-exemption-from-sales-tax-on-purch...> ▼
Dec 30, 2002 - **Manufacturers** are **exempt** on purchases of property that will be incorporated into the product and materials and supplies PREDOMINANTLY ...

➤ Boolean Search Example – manufacturing exemption

The screenshot shows a search engine interface with the query 'manufacturing exemption'. The search results are filtered to 'All' and show approximately 2,270,000 results in 0.92 seconds. The top result is a snippet from 'www.smith-howard.com' regarding 'Consumable Items' and the 'manufacturing exemption' in 2014. Below this are four PDF links from various government sources, including the Illinois Department of Revenue, the Wisconsin Department of Revenue, and the Illinois State Revenue Department, all detailing manufacturing exemptions.

manufacturing exemption

All News Images Maps Videos More Settings Tools

About 2,270,000 results (0.92 seconds)

Consumable Items: In 2014, consumable items language was added to the definition of "equipment" as an **exemption** recognized by the Department of Revenue for **manufacturers**. Consumable supplies, or tangible personal property consumed or expended during **manufacturing**, is now included in the **manufacturing exemption**.

[Manufacturing Sales Tax Exemption | Sales Tax Refund for ...](#)
www.smith-howard.com/resources/articles/sales-tax-refund-opportunities-manufacturers

About this result Feedback

[\[PDF\] ST-587, Equipment Exemption Certificate - Illinois Department of ...](#)
tax.illinois.gov/taxforms/sales/st-587.pdf ▼
Generally, an **Equipment Exemption Certificate** is required for proof that no tax is due on any sale that is made tax-free as a sale of equipment to be used primarily in **manufacturing** or assembling of tangible personal property, **production** agriculture, or coal and aggregate mining.

[Manufacturing Sales Tax Exemption | Sales Tax Refund for ...](#)
www.smith-howard.com/resources/.../sales-tax-refund-opportunities-manufacturers ▼
Consumable Items: In 2014, consumable items language was added to the definition of "equipment" as an **exemption** recognized by the Department of Revenue for **manufacturers**. Consumable supplies, or tangible personal property consumed or expended during **manufacturing**, is now included in the **manufacturing exemption**.

[\[PDF\] Pub 203 Sales and Use Tax Information for Manufacturers – June 2016](#)
<https://www.revenue.wi.gov/DOR%20Publications/pb203.pdf> ▼
Jun 1, 2016 - V. EXEMPTION FOR MANUFACTURING MACHINES AND SPECIFIC EXEMPTION FOR CONTAINERS AND OTHER PACKAGING AND ...

[\[PDF\] Title 86 Part 130 Section 130.330 Manufacturing Machinery - Illinois ...](#)
www.revenue.state.il.us/legalinformation/regs/part130/130-330.pdf ▼
1). This **exemption** exempts from tax only machinery and equipment used in **manufacturing** or assembling tangible personal property for sale or lease. Thus,.



Steps of a Sales & Use Tax Research Project

Steps of a Sales & Use Tax Research Project

- Reasons for research projects include:
 - Start of a new business or division
 - Addition of a product or service
 - Keeping up with law changes
 - Entering a new jurisdiction
 - Doing business with a new customer

Steps of a Sales & Use Tax Research Project (cont.)

- Identify all taxability scenarios
- Begin the research
- Make your taxability decisions
- Communicate results
- Take necessary action steps

Identify all Taxability Scenarios

- If many cases are being evaluated, organize them into groups that have the same facts.
- Be sure to include all details that could affect the taxability of the transaction.
- Use existing knowledge, including past research projects, as a starting point for researching the new scenarios.
- Make a list of ideas and keywords that can be used in the research.

Identify all Taxability Scenarios (cont.)

Canned Software maintenance agreements
Optional Bundled updates & support Electronically delivered
Optional Phone support only
Optional Electronic updates only
Mandatory Bundled updates & support Electronically delivered
Mandatory Phone support only
Mandatory Electronic updates only

Real Property:
Renovations to existing space - contractor invoiced
New construction - addition or new office building
Fixtures
Real property repair services
Building Materials purchased directly
Maintenance Services
Janitorial Services
Landscaping Services
Window Cleaning Services
Building Management Fees
Security System Services (system installation)
Security System Services (monitoring service)
Security Guard Services

Begin the Research

- Identify the tool to be used
 - Commercial Tools vs Free resources
 - How many different jurisdictions are involved?
 - How standard is the issue?

Research Methodology Using a Digital Tool

- Multi-State Researching Tricks in Commercial Tools
 - Select multi states when doing a key word search
 - Paragraph number consistency
 - Paragraph numbering logic
- Key Word Search
 - Think of different terminology that might be used
 - Use synonyms
 - Be creative

Research Methodology using a Digital Tool (cont.)

- Tree vs. Key Word Searches
 - “Old School” research method using content tree/index
 - Look for section that makes sense
 - Start with the Commentary/Explanation or state bulletins for issue overview and links

Research Methodology using a Digital Tool (cont.)

- Commentary
 - Editor's interpretation of the provisions
 - No authority or precedential value
 - Very helpful for overview and linking to statutes, regulations, cases and supplemental materials

Make Your Taxability Decisions

- Is your product or service taxable or exempt?
- Under what circumstances may this determination change?
- If you are unable to make a taxability determination, consider:
 - Seeking outside help
 - Requesting a private letter ruling if precedence has not been established for your situation.

Communicate Results

- Identify the user of your research results.
- Evaluate different communication formats
 - Simple taxability matrix
 - Detailed taxability matrix with footnotes and citations.
 - Research memorandum
 - Legal document

Communicate Results (cont.)

New York				
T = Taxable				
NT = Not Taxable				
		Taxability	Comments	Cite
	Canned Software maintenance agreements			
	Optional Bundled updates & support Electronically delivered	T		N.Y. Tax Law 1101(b)(14) N.Y. Tax Law 1105(a) N.Y. Reg 527.5(c) (3) TB-ST-128 (8/5/2014)
	Optional Phone support only	NT	Technical support services involving assistance by telephone or otherwise in using software, problem resolution and special programming, if performed on computer software, and professional training services are exempt from sales tax.	TSB-A-02(42)S
	Optional Electronic updates only	T		N.Y. Tax Law 1101(b)(14) N.Y. Tax Law 1105(a) N.Y. Reg 527.5(c) (3) TB-ST-128 (8/5/2014)
	Mandatory Bundled updates & support Electronically delivered	T		N.Y. Tax Law 1101(b)(14) N.Y. Tax Law 1105(a) N.Y. Reg 527.5(c)(3) TB-ST-128 (8/5/2014)
	Mandatory Phone support only	NT	Technical support services involving assistance by telephone or otherwise in using software, problem resolution and special programming, if performed on computer software, and professional training services are exempt from sales tax.	TSB-A-02(42)S
	Mandatory Electronic updates only	T		N.Y. Tax Law 1101(b)(14) N.Y. Tax Law 1105(a) TSB-A-02(42)S (7/26/02) TB-ST-128 (8/5/2014)

Communicate Results (cont.)

- Retain copies of all research used in making decisions.
 - Depending on your resource if the document changes you might not be able to get the exact document you relied on

Action Steps

- Update your tax software/POS/ tax process to reflect proper taxability.
- Reduce costs by creating and acting on tax strategies based on research findings.
- Continue to track hot topics that may affect your business down the road

Questions / Comments

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Diane L. Yetter

Thank you for watching!



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[/user/salestaxinstitute](https://www.youtube.com/user/salestaxinstitute)

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