

Sales/Use/Indirect:

Tennessee: Customized Software Services Deemed Taxable and Cannot be Allocated to Out-of-State Users

Letter Ruling No. 23-10, Tenn. Dept. of Rev. (11/17/23). In a letter ruling involving application of Tennessee sales and use tax where a taxpayer engaged a third-party to migrate its previous enterprise resource planning (ERP) system to a cloud-based software-as-a-service (SaaS) ERP and customer relationship management system, the Tennessee Department of Revenue (Department) held that the costs incurred to provide software customization (including the blueprint phase, build and validate phase, validate and deploy phase, and operate phase) are subject to Tennessee sales and use tax under state law as enumerated taxable services. Furthermore, the Department held that the taxpayer *cannot* allocate a percentage of such taxable customization elements to its out-of-state employees because the taxpayer downloads the new system *before* its employees use it elsewhere. The Department also held that other work in the engagement consisting of non-customizing software implementation and configuration services are *not* subject to Tennessee sales and use tax. Please contact us with any questions.

URL: <https://www.tn.gov/content/dam/tn/revenue/documents/rulings/sales/23-10.pdf>

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