



STATE OF ARKANSAS
**Department of Finance
and Administration**

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[REDACTED]
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Re: Gross Receipts Tax - Computer Service Work
Opinion Number 20150908

[REDACTED]

On August 6, 2015, the Department of Finance and Administration (“the Department”) received your letter requesting a legal opinion regarding the above referenced-topic, which has been referred to me for a response. In your letter you requested that the Department issue a legal opinion confirming whether certain services involving computer equipment are subject to sales tax.

In particular you stated that the City of [REDACTED] had an auditor review its books, and the auditor determined that the city received a refund from the state for some of the sales tax that was charged, and that the city now wants you to stop charging sales tax for the service work which you provide to the city. You provided several scenarios under which you wish to know whether sales tax on services should be charged. Each scenario will be addressed separately below.

1. “Are we supposed to be charging sales tax on service work when a customer brings their computer in to us at our shop and we just remove viruses/malware from the computer?”

Response: Yes. The Arkansas Gross Receipts (sales) Tax is levied upon the sale of tangible personal property and certain enumerated services. Ark. Code Ann. § 26-52-301 (Repl. 2014). Ark. Code Ann. § 26-52-304 (Repl. 2014) states, in part:

- (a) The excise tax [...] is levied on gross receipts or gross proceeds received from the following:
 - (1) (A) Sales of computer software, which shall be taxed as sales of tangible personal property. Software shall include tapes, disks, cards, or other devices or materials which contain instructions for a computer and dictate different operations or functions to be performed by the computer;
 - (2) Service of repairing or maintaining computer equipment or hardware in any form.

Similarly, Arkansas Gross Receipts Tax Rule GR-25(A) provides, “Sales tax is levied on the gross receipts or gross proceeds received from sales of computer hardware, computer software, and the service of repairing or maintaining computer equipment or hardware in any form.”

Sales of both computer hardware and software and related repair and maintenances services are taxable.

2. “Are we supposed to be charging sales tax on service work when a customer brings their computer to us at our shop and we replace a part like the hard drive and reload the computer is the service taxable?”

Response: Yes. See Response to question No. 1.

3. “Are we supposed to charge tax when we go out to customers business and we just do service such as removing viruses, change settings etc. and there is NO hardware involved?”

Response: Yes. See Response to question No. 1.

4. “Are we supposed to be charging sales tax when we take customer hardware out and install? I know we are supposed to charge sales tax for the hardware but are we supposed to charge sales tax on the labor?”

Response: Yes. See Response to question No. 1.

5. “Are we supposed to be charging sales tax for monthly online backup service?”

Response: No. Arkansas Gross Receipts (sales) Tax generally applies to the entire gross receipts received on all sales of tangible personal property and certain specifically enumerated taxable services. Ark. Code Ann. § 26-52-301 (Repl. 2014). *See also* Arkansas Gross Receipts Tax Rules GR-9-9.18. Online computer backup service is not one of the specifically enumerated taxable services under the statute or the Gross Receipts Tax Rules.

In accordance with Arkansas Gross Receipts Tax Rule GR-75, this opinion is based upon my understanding of the facts as set out in your inquiry and as current Arkansas laws and rules govern those facts. Any changes in the facts or law could result in a different opinion. This opinion will not be binding upon the Department for any topic not specifically addressed herein. You may seek a supplemental opinion should you desire guidance in any topic not addressed within this opinion or if you have additional questions after reading this opinion. Please be advised that this opinion may only be relied upon by the specific and identified requestor, and will only be binding upon the Department for three (3) years from the date of issuance. See Arkansas Gross Receipts Tax Rule GR-75.

A copy of the Arkansas Gross Receipts Tax Rules referenced in this letter is available online at http://www.dfa.arkansas.gov/offices/policyAndLegal/Documents/et2008_3.pdf.

Sincerely,

Greg Ivester, Attorney
Revenue Legal Counsel