

**8130.9700 AUTOMATIC DATA PROCESSING.**

Subpart 1. **In general.** A sales or use tax is imposed upon the gross receipts from selling, leasing, or granting a license to use tangible personal property. When separately stated, the labor charges for repair, service, and maintenance of tangible personal property is not subject to tax. The producing, fabricating, processing, printing, or imprinting of tangible personal property for a consideration for consumers who directly or indirectly furnish the materials used in the producing, fabricating, processing, printing, or imprinting is also subject to tax. The transfer of property produced, fabricated, or printed to the special order of the customer is also subject to tax.

This part sets forth guidelines for the application of the general statutory provisions to transfers of property and service rendered in the automatic data processing industry.

"Automatic data processing services" are those rendered in performing all or part of a series of data processing operations through an interacting assembly of procedures, processes, methods, personnel, and automatic data processing equipment. Automatic data processing services may be provided by manufacturers of data processing equipment, data processing centers, systems designers, consultants, software companies, etc. In addition, there are banks and other businesses which own or lease automatic data processing equipment and use it primarily for their own purposes but occasionally provide services to others. Businesses rendering automatic data processing services will be referred to as "service bureaus."

Subp. 2. **Description of terms.** Data processing terms are described as follows:

A. The specific job performance by an automatic data processing installation is called an "application." For example, data processing for a payroll may be called a payroll application.

B. The term "automatic data processing equipment" includes computers and their peripheral equipment as well as punched card tabulating machines.

C. "Coding" means the list, in computer code, of the successive computer instructions representing successive computer operations for solving a specific problem.

D. "Input" means the information or data transferred, or to be transferred, from external storage media (e.g., punched cards, punched paper tape, and magnetic tape) into the internal storage of the computer.

E. "Keypunching" means recording information in cards, paper tapes, or magnetic tapes, discs, or drums by punching holes in the cards, paper tapes or inserting magnetic bits on magnetic tape, discs, or drums, to represent letters, digits, and special characters. Keypunching includes the necessary preliminary encoding or marking of the source documents.

F. "Keystroke verifying" means the use of a machine known as a punched card verifier or tape transcriber, which has a keyboard, to ensure that information punched in a punch card or transcribed on magnetic tape during the keypunching operation has been punched properly. The machine signals when the punched hole on the card and the depressed key disagree, or when the data on magnetic tape differs from depressed keys.

G. "Off-line" is descriptive of a system and the devices in a system in which the operation of equipment is not under the control of a computer.

H. "Online" is descriptive of a system and the devices in a system in which the operation of such system or devices is under control of a computer.

I. "Output" means the information transferred from the internal storage of the computer to an external storage media (e.g., punched cards, magnetic tape, and tabulated listing).

J. "Program" is the complete plan for the solution of a problem, i.e., the complete sequence of automatic data processing equipment instructions necessary to solve a problem. It includes both systems and application programs and subdivisions such as assemblers, compilers, routines, generators, and utility programs.

K. A "proof listing" is a tabulated listing of input.

L. A "source document" is from which basic data are extracted (e.g., sales invoice).

Subp. 3. **Taxable transactions, unless otherwise exempt under Minnesota Statutes, chapter 297A.** Certain transactions are treated as follows:

A. Retail sales of new or used data processing equipment are taxable.

B. Leases of equipment are subject to tax. A lease includes a contract by which a lessee secures for a consideration the use of equipment which may or may not be on the lessee's premises if the lessee or the lessee's employees operate the equipment, or if the equipment is operated under the direction and control of the lessee or the lessee's employees. Subleasing receipts are taxable without any deduction or credit for tax paid by the original lessee to the lessor, if the original lessee uses the property in addition to subleasing it. Use of equipment on a time-sharing basis, where access to the equipment is only by means of remote access facilities, is not a taxable leasing of such equipment.

C. Persons who sell or lease data processing equipment may provide a number of training services with the sale or rental of their equipment. Training services, per se, when separately stated, are not subject to the tax. Training materials, such as books, videos, and cassettes, furnished to the trainees for a specific charge are taxable.

D. Generally tax applies to the conversion of customer-furnished data from one physical form of recordation to another.

For example, if all or some data in punched cards is duplicated into another set of cards, charges for this service are taxable.

E. When additional copies of records, reports, or tabulations are provided, tax applies to the charges made for the additional copies. "Additional copies" are all copies in excess of those produced on multipart carbon paper simultaneous with the production of the original and on the same printer, whether the copies are prepared by rerunning the same program, by using multiple simultaneous printers, by looping a program such that the program is run continuously, by using different programs to produce the same output product, or by other means. Where additional copies are prepared, the tax will be measured by the charge made by the service bureau to the customer. Charges for copies produced by means of photocopying, multilithing, or by other means are also subject to tax.

F. Sales of mailing lists in the form of cheshire tapes, gummed labels, and heat transfers produced as a result of a computer run are taxable. However, computer-generated mailing lists alone involving no transferable product are not taxable. Where the service bureau, through the use of its automatic data processing equipment, addresses material to be mailed, with names and addresses furnished by the customer or maintained by the service bureau for the customer, tax does not apply to the charge for addressing. Similarly, where the service bureau prepares labels to be affixed to material to be mailed, with names and addresses furnished by the customer or maintained by the service bureau for the customer, tax does not apply to the charge for producing the labels, when the service bureau itself affixes the labels to the material to be mailed.

G. For taxation of retail sales of computer software, see part 8130.9910.

Subp. 4. **Nontaxable services.** Certain services are treated as follows:

A. "Processing a client's data" means the developing of original information from raw data furnished by the customer. Examples of automatic data processing operations which result in original information are summarizing, computing, extracting, sorting, and sequencing. Such operations also include the updating of a continuous file of information maintained by the customer with the service bureau.

Generally, if a person enters into a contract to process a client's data by the use of a computer program, or through an electrical accounting machine programmed by a wired plugboard, the contracts are nontaxable (except if the contract is in the nature of a lease as outlined in subpart 3, item B). Such contracts usually provide that the person will receive the client's source documents, record data in machine-readable form (such as in punch cards or on magnetic tape), make necessary corrections, rearrange or create new information as the result of the processing, and then provide tabulated listings or record output on other media. This service is considered nontaxable even if the total charge is broken down into specific charges for each step. The furnishing of computer programs and data by the client for processing under direction and control of the person providing the service is nontaxable

even though charges may be based on computer time. The true object of these contracts is considered to be a service, even though some tangible personal property is incidentally transferred to the client.

"Processing a client's data" does not include:

(1) work performed under an agreement providing solely for the reformatting of data or for the preparation of a proof listing or the performance of an edit routine or other preprocessing;

(2) the using of a computer as a mere printing instrument, as in the preparation of personalized computer-printed letters; or

(3) the mere converting of data from one medium to another.

B. Designing of systems, converting of systems, consulting, training, and miscellaneous services are services which consist of the developing of ideas, concepts, and designs. Common examples of such services are:

(1) designing and implementing computer systems (e.g., determining equipment and personnel required and how they will be utilized);

(2) designing storage and data retrieval systems (e.g., determining what data communications and high speed input-output terminals are required);

(3) converting manual systems to automatic data processing systems and converting present automatic data processing systems to new systems (e.g., changing a second generation system to a third generation system);

(4) consulting services (e.g., a study of all or part of a data processing system);

(5) feasibility studies (e.g., studies to determine what benefits would be derived if procedures were automated); and

(6) evaluation of bids (e.g., studies to determine which manufacturer's proposal for computer equipment would be most beneficial).

C. Persons engaged in providing nontaxable computer services are the consumers of all tangible personal property used in such activities and the tax must be paid on their acquisition of such property.

D. Key punching and keystroke verifying is an item which covers situations where a service bureau's agreement provides only for key punching, keystroke verifying, and proof listing of data or any combination of these operations. It does not include contracts under which these services are performed as steps in processing a client's data as described in item A.

Agreements providing for keypunching and keystroke verification, or keypunching, providing a proof list, and/or verification of data are not regarded as contracts for the fabrication of punch cards and sales of proof lists. Charges therefore are not taxable, whether the cards are furnished by the customer or by the service bureau. Data from source documents may also be recorded directly on magnetic tape (off-line). This operation may include keystroke verifying and/or proof listing of data and is comparable to the punch card operation. Charges for this operation are not taxable whether the magnetic tapes are furnished by the customer or by the service bureau. No tax applies to charges for the imprinting of characters on a document to be used as the input medium in an optical character recognition system. The tax treatment is the same even though paper tape or other medium were used in the operation.

Subp. 5. **Microfilming and/or photorecording services.** Microfilming and photorecording services are treated as follows:

A. Some electronic data processing systems accept signals directly from the computer (online) at high speeds and then records them on microfilm or on photorecording paper. The computer output medium is merely changed from the more common output media of magnetic tape and tabulated listings to microfilm or photorecording paper. When this end product is the result of a complete computer program as outlined in subpart 4, item B, the tax will not apply.

B. In all situations where data is converted by means other than by the use of a complete computer program as outlined in subpart 4, item B, the receipts for microfilming or photorecording are subject to sales tax.

An example of this is where data on magnetic tape is converted into combinations of alphanumeric printing, curve plotting, and/or line drawings and put on microfilm or photorecording paper.

Subp. 6. [Repealed, 18 SR 784]

**Statutory Authority:** *MS s 270.06; 270C.06; 297A.29*

**History:** *17 SR 1279; 18 SR 784; L 2005 c 151 art 1 s 114*

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