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**Gail Cole** • Feb. 26, 2019



*Where are electronic books, Hulu, and Pandora subject to sales tax?*

Sales tax laws don't always keep up with the times. Although more and more of us now use digital products in our work and fill our free time with ebooks, Spotify, and Netflix, many states still don't tax their sale or rental of these products. That's steadily changing.

Though there's often resistance to expanding sales tax to previously exempt goods and services, including those that didn't exist when sales tax was first levied, it's

gradually breaking down. Year after year, digital products shift from exempt to

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- Digital audio files (music, podcasts, ringtones, etc.)
- Digital books (ebooks, magazines, newspapers)
- Digital images and video files (photographs, television shows, movies)

These digital products don't fit tidily into many state sales tax definitions and laws because the laws were made before such products were even conceived. All states with a sales tax apply it to most "tangible personal property" — but an ebook can't be held like a physical book, and a streamed movie can't be grasped like a DVD.

Nonetheless, some states try to make old definitions and laws work for newer products. Some don't tax digital products because they're considered to be intangible, while others consider them tangible because they can be seen if not held. And some states use existing laws as guidelines: If a product is taxable in its tangible form, it's taxable in its intangible form.

States that are members of the [Streamlined Sales and Use Tax Agreement](#) (SSUTA) adhere to uniform definitions for these products. However, the definitions aren't linked to the taxability of digital products, which still varies from state to state.

Most frustratingly, some states simply don't define these products or address the taxability of digital products. In these instances, guidance can sometimes be found in letter rulings, in which the tax authorities answer questions from specific taxpayers; but that's not the same thing as a law that applies to everyone.

Once determined, taxability rules need to be periodically confirmed because sales tax rates, rules, and regulations are subject to change. That's true for all products and services, from clothing to food to spray tans, but it's especially true for digital products. Keep an eye on [Rhode Island](#) this year.

Below is a list of states that generally tax the sale and use of digital products, followed by a list of states that generally exempt them. Bear in mind that sales tax

law is rarely black and white: For example, some states have specific rules for digital

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## States that generally tax digital products

- [Alabama](#)
- [Arizona](#)
- [Arkansas](#)
- [Colorado](#)
- [Connecticut](#) (subject to a reduced rate of 1 percent)
- [Florida](#) (video and music streaming subject to the communications services tax, or CST)
- [Hawaii](#)
- [Idaho](#) (if purchasing the right to use permanently)
- [Indiana](#)
- [Iowa](#)
- [Kentucky](#) (digital audio-visual works are excluded from the definition of “digital property”)
- [Louisiana](#)
- [Maine](#)
- [Minnesota](#)
- [Mississippi](#)
- [Nebraska](#)
- [New Jersey](#)
- [New Mexico](#) (see [FYI-105: Gross Receipts and Compensating Taxes: An Overview](#))
- [North Carolina](#)
- [Ohio](#)
- [Pennsylvania](#)
- [South Dakota](#)
- [Tennessee](#)
- [Texas](#) (provided the tangible form is also taxable)
- [Utah](#)

- [Vermont](#)

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- [Georgia](#)
- [Idaho](#) (the leasing or renting, and digital subscriptions)
- [Illinois](#) (but [Chicago amusement tax](#) applies to streaming services in Chicago)
- [Kansas](#) (download the state taxability matrix for more details)
- [Maryland](#) (digital goods are not referenced called out as taxable)
- [Massachusetts](#)
- [Michigan](#) (download the state taxability matrix for more details)
- [Missouri](#)
- [Nevada](#) (download the state taxability matrix for more details)
- [New York](#)
- [North Dakota](#) (see 57-39.2-04. Exemptions)
- [Oklahoma](#) (see 710:65-19-156. Internet-related services and transactions)
- [Rhode Island](#)
- [South Carolina](#)
- [Virginia](#)
- [West Virginia](#) (download the state taxability matrix for more details)

Five states don't have a general sales tax: Alaska, Delaware, Montana, New Hampshire, and Oregon (the NOMAD states).

States often treat the sale of software differently than the sale of digital products. With software, taxability generally depends on whether the software is canned or custom, downloaded or delivered on tangible personal property, or software as a service (SaaS). [Learn more about how sales tax applies to software.](#)

[Automating sales tax calculation, remittance, and returns](#) makes handling product taxability changes more manageable.

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