

Exhibit P

MMA Position Statement



Mississippi Manufacturers Association

Taxation of Remote and Internet-Based Computer Software Products & Services Study Committee

Comments by the Mississippi Manufacturers Association

August 16, 2022

Last fall the Mississippi Department of Revenue (MS DOR) published a proposed regulation change relating to the taxation of remote and internet-based computer software, claiming that prior judicial decisions and legislative changes necessitated the revisions. This created a situation where, even though a new law or regulation was never adopted specific to software-related purchases, sales and use taxes would now be levied against Mississippi businesses for these purchases. While MS DOR contends that these purchases were always taxable events, current state statute and DOR regulations clearly delineate between software housed on computers and servers in Mississippi versus in other states, thereby creating a considerable amount of ambiguity surrounding the scope of what DOR should or should not be taxing. As we discuss updating laws and rules regarding taxation to reflect advances in technology, we also need to consider the evolution of how we utilize software and how that aligns with Mississippi's overall policy on taxation.

Software as an Input

In today's modern industrial setting, there are very few processes that are not in some way monitored and/or controlled by computer software. There was certainly a time when these software programs were physically purchased and downloaded onto a local machine or server, but those days are long past. The level of automation and interconnectivity in modern manufacturing requires extremely sophisticated software platforms that depend on real-time, almost constant updating. This does not even take into consideration the level of cybersecurity measures that have to be deployed to protect proprietary data from foreign and domestic threats. All of these incredible advancements that have driven increases in productivity, quality, and safety have required considerable investments from these companies. Any reinterpretation of tax regulations that would add additional costs to these platforms via sale and use taxes would essentially be taxing a manufacturing input, as this computerized automation is essentially required to be competitive in a modern industrial facility.

Additionally, by taxing this software that is cloud-based or otherwise remotely housed, Mississippi would be adding additional costs throughout the manufacturing process. This is known as tax stacking, which increases the costs of goods by including numerous "hidden" taxes throughout the process, thereby making the final product more expensive. Ideally, MS should be looking to exempt, or at the very least greatly reduce, these taxes on inputs and levy taxes on the consumer or end user.

Complexity & Cost of Compliance

Moving beyond sound economic philosophy, consideration should also be given to the complexity of this issue and cost of compliance for businesses of all sizes. While larger companies tend to have the resources to comply with tax code changes, this potential change would require a great deal of

attention. Deciding how to allocate tax liability for a company with facilities in multiple states, equipment with software and updates bundled into a single transaction, or remote workers that do not have easily identifiable geographic boundaries are just a few of the complex issues manufacturers would have to contend with. Not to mention the cost and complexity for a small-to-mid sized company, which would be impacted disproportionately because they do not have the personnel to handle such complexity. At the very least we should be moving toward a simpler tax compliance regime that creates greater certainty.

Impact on Economic Development & Growth

Taking a step back and looking at the broader implications of this change, this move by the MS DOR appears to be contrary to the direction of our state's political leadership. For over a decade now, Mississippi's leaders have moved aggressively to remove barriers to business growth and attempted to eliminate or reduce taxes that make us less competitive. Numerous examples, such as the franchise tax phase-out, tax credits for inventory taxes paid to local subdivisions, and eliminating the sales tax on energy used in the manufacturing process, prove that our economic development strategy has been driven by a desire to lower the cost of doing business in this state. Therefore, it seems counterproductive to increase taxes on software and related services while simultaneously trying to position ourselves to have a more competitive tax structure.

Conclusion

The issue of taxing remote and internet-based computer software products and services is extraordinarily complex and there is no consensus across states of how best to implement such a tax. As Mississippi works towards our own solution, we need to consider the implications previously noted in these comments. Hasty implementation of such a change in tax policy could be detrimental to the business community, with the greatest burden falling on the small-to-mid sized businesses that rely so heavily on software products and services to survive. Therefore, it is the recommendation of the Mississippi Manufacturers Association that the Mississippi State Legislature consider legislation in the 2023 session that clearly defines what is "software" and what is taxable in our state under that definition. Furthermore, regardless of the ultimate definition(s) settled upon, MMA recommends that manufacturers be exempt from these taxes because it would simply add another input cost to the final product, ultimately increasing prices and reducing market competitiveness.