

Exhibit S

Committee Ballot

Proposed Ballot on Committee Recommendations

Definition of Software

Please indicate whether you agree or disagree with the following policy statements:

1. The statutes should specifically define the term “computer software.” **Agree** ___ / **Disagree** ___
2. The statutory definition of “computer software” should not include data or databases. **Agree** ___ / **Disagree** ___
3. The statutory definition of “computer software” should not include apps or similar programs downloaded to a computer or mobile device that merely enable the user to access software housed remotely. **Agree** ___ / **Disagree** ___
4. The statutory definition of “computer software” should not include Platform-as-a-Service (“PaaS”) or Infrastructure-as-a-Service (“IaaS”) even though those may be commonly understood as elements of “cloud computing.” **Agree** ___ / **Disagree** ___
5. The statutes should specifically define the term “computer software sales and services.” **Agree** ___ / **Disagree** ___
6. The definition of “computer software sales and services” should not include data processing services. **Agree** ___ / **Disagree** ___
7. The statutes should include a non-exclusive list of items that are considered to be non-taxable. This list might include, for example, items such as research databases, credit reports, real estate listings, rating reports and services, title abstracts, wire services, consumer banking, etc. **Agree** ___ / **Disagree** ___
8. The statutes should include a general statement of principle that in the context of software and related services, any ambiguities or uncertainties as to whether an item, service, or transaction is taxable or nontaxable shall be presumed to be nontaxable unless and until the Legislature affirmatively acts to clarify the statutes. **Agree** ___ / **Disagree** ___

Taxation of Software

Taxation of non-business consumer transactions

Rank the following from 1 to 2 based on your preferred policy position.

___ Mississippi should impose sales/use tax on all sales of software and related services to non-business consumers regardless of whether the software is physically delivered or downloaded into the state. Under this policy, the sales/use tax would extend to software located on servers outside Mississippi and accessed via the Internet by a user in Mississippi.

___ Mississippi should impose sales/use tax on all sales of software and related services to non-business consumers only if the software is physically delivered or downloaded into the state. Under this policy, the sales/use tax would NOT extend

to software located on servers outside Mississippi and accessed solely via the Internet by a user in Mississippi.

Location of services

Taxation of business transactions - software

Rank the following from 1 to 3 based on your preferred policy position

- ___ Mississippi should exclude from the sales/use tax all sales of software to business consumers and used as a business input. Under this policy, Mississippi would NOT tax software delivered or downloaded into the state, or software located remotely and accessed via the Internet if it is used as a business input.
- ___ Mississippi should impose sales/use tax on all sales of software to business consumers and used as a business input only if the software is physically delivered or downloaded into the state. Under this policy, Mississippi would NOT tax software located on servers outside Mississippi and accessed via the Internet by a user in Mississippi. This is the state's historic tax policy currently reflected in the use tax regulations but that was proposed to be amended.
- ___ Mississippi should impose sales/use tax on all sales of software to business consumers and used as a business input regardless of whether the software is physically delivered or downloaded into the state or accessed via the Internet by a user in the state. Under this policy, Mississippi would tax all software regardless of its location if utilized by a user in the state.

Taxation of business transactions - services

Rank the following from 1 to 3 based on your preferred policy position

- ___ Mississippi should exclude from the sales/use tax all software related services to business consumers and used as a business input. Under this policy, Mississippi would NOT tax software related services provided to customers in the state if it is used as a business input, even if provided in-person within the state.
- ___ Mississippi should impose sales/use tax on all software related services to business consumers and used as a business input only if the services are performed physically within the state. Under this policy, Mississippi would NOT tax software related services provided remotely via the Internet by a provider located outside Mississippi.
- ___ Mississippi should impose sales/use tax on all software related services to business consumers and used as a business input regardless of whether the service is performed within the state or provided remotely via the Internet . Under this policy, Mississippi would tax all software related services provided to Mississippi businesses regardless of the physical location of the provider.

Tax rates

Rank the following from 1 to 3 based on your preferred policy position.

- ___ If taxable, Mississippi should tax all sales of software and related services to business consumers that are used as a business input at a special sales/use tax rate.

Under this policy, the special rates would not be limited to those industries that currently use special tax rates.

___ If taxable, only those businesses that are already subject to special sales tax rates would be taxed at those special rates on purchases of software and related services. All other sales would be at the ordinary sales/use tax rates.

___ If taxable, Mississippi should tax all sales of software and related services at the ordinary sales/use tax rate, regardless of whether acquired by a consumer or a business.

Administration and Collection

Use of Direct Pay Permits / Self-Accrual Process

Rank the following from 1 to 2 based on your preferred policy position.

___ All businesses should self-accrue any applicable sales/use tax on software and related services regardless of industry.

___ Only those businesses meeting specified criteria should self-accrue any applicable sales/use tax on software and related services regardless of industry. These special criteria could include but not be limited to (a) being subject to multiple sales tax rates based on their industry; (b) purchasing bundled transactions consisting of taxable and nontaxable components; (c) utilizing the software or related services across multiple locations or jurisdictions; and (d) using the software and related services across multiple related entities.

Apportionment / Bundled Transactions

Please indicate whether you agree or disagree with the following policy statements:

1. If taxable, software or related services that are used across multiple jurisdictions should be apportioned to Mississippi by that method that best establishes or approximates actual usage within Mississippi. **Agree ___ / Disagree ___**
2. The Department should be authorized to adopt regulations establishing multiple, non-exclusive pre-approved "safe harbor" methods to apportion the use of software and related services between Mississippi and other jurisdictions. **Agree ___ / Disagree ___**
3. If taxable, the statutes should authorize taxpayers to bifurcate, based on the best information available, any charges for bundled transactions that include combinations of taxable, nontaxable, and/or special rate software or related services. **Agree ___ / Disagree ___**
4. The Department should be authorized to adopt regulations establishing multiple, non-exclusive pre-approved "safe harbor" methods to bifurcate charges for bundled transactions containing multiple taxable, nontaxable, and/or special rate software or related services. **Agree ___ / Disagree ___**
5. Mobile users

Other Administrative Issues

Please indicate whether you agree or disagree with the following policy statements.

1. Credit for taxes paid to other states - If taxable, the statutes should authorize a credit against both sales and use taxes for any similar taxes paid to other state and local jurisdictions on software or related services that are taxable in Mississippi. **Agree** ___ / **Disagree** ___
2. Refund statute of limitations - If taxable, the statutes should include an expanded statute of limitations period for taxpayers to seek refunds of sales or use taxes on software or related services if they are later taxed by another jurisdiction in a manner that would result in a Mississippi credit as described above. **Agree** ___ / **Disagree** ___
3. Refund application process - If taxable, the statutes should authorize a procedure whereby a business or non-business consumer of software or related services can request a refund or credit of any overpaid sales/use taxes directly from the Department without having to go through the vendor. **Agree** ___ / **Disagree** ___
4. Intercompany transactions – Mississippi should not levy sales or use tax on intercompany transactions between related entities involving the internal use of software or related services, regardless of whether that is uncompensated, separately charged, or included within a broader administrative services / management fee. **Agree** ___ / **Disagree** ___
5. True object test – In situations where it is unclear whether a taxpayer is acquiring software / software services versus non-taxable professional services that merely rely upon software in their performance, Mississippi should expressly adopt the “true object” test utilized in other states in making the determination of the nature of the transaction. **Agree** ___ / **Disagree** ___
6. Emergency / redundant systems – Mississippi should specifically exempt from sales / use tax any software maintained or used as a redundant system in the event of natural disasters, emergencies, etc. **Agree** ___ / **Disagree** ___
7. Government mandated software - Mississippi should expressly exempt any software required by government or regulatory bodies related to data security, etc. **Agree** ___ / **Disagree** ___