



This Week in State Tax (TWIST)

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TENNESSEE



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Tennessee: A Tale of Two Software Rulings

The Tennessee Department of Revenue recently issued two rulings addressing whether taxpayers were providing nontaxable services or taxable computer software. Under Tennessee law, computer software, including remotely accessed computer software, is subject to sales and use tax. The taxpayer in [Letter Ruling #22-07](#) provided a subscription-based product for creating and managing advertising. The product was used to produce advertisements, which were then deployed to other platforms. The product then consolidated data related to the advertisements on a user's dashboard. The taxpayer suggested that while its product may involve access to and use of computer software, those components were ancillary to its primary function, which was the provision of nontaxable advertising services. The Department disagreed, determining that the taxpayer was providing software that facilitated the creation and management of a user's own advertising. The product- software- was being used for its functionality, and a customer was not purchasing an advertising service. The Department noted that the taxpayer had compared its situation to the facts in [Letter Ruling #19-01](#); however, the customers in [Letter Ruling #19-01](#) used the taxpayer's product to create event listings later published on the taxpayer's platform. In that instance, the Department concluded that the true object was the nontaxable platform and listing services.

[Letter Ruling #22-08](#) addressed a taxpayer that provided compliance monitoring services using its own proprietary data set. The data set was consistently verified, enhanced, and updated. The scope and extent of each of the taxpayer's four service offerings varied slightly, but generally each service allowed customers to monitor certain information (for example, on a customer's employees or vendors) against the taxpayer's proprietary data set. The customers accessed the services either through the Taxpayer's online portal or through an API. Although the Department noted that the API could broadly be seen as taxable computer software, it applied the true object test and concluded that the use of the online portal or API was merely incidental to providing nontaxable information and data processing services. The ruling noted that there was no additional charge for the API, and that the online portal and the API were being used only to gain access to the nontaxable services. Please contact [Justin Stringfield](#) with questions.



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