



# State of Alabama Department of Revenue

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## **ALABAMA DEPARTMENT OF REVENUE REVENUE RULING 2010-001**

**This document may not be used or cited as precedent. Ala. Code § 40-2A-5(a) (2003 Replacement Volume).**

TO:

FROM: Commissioner of Revenue  
Alabama Department of Revenue

DATE: October 1, 2010

RE: Applicability of Alabama Sales and Use Tax on Company “A’s” new XYZ  
Service Offering

### **FACTS**

The facts as represented by the Requestor are as follows:

Company “A” is a Delaware corporation registered to do business in the State of Alabama. Company “A” possesses a permit to collect Alabama sales and use tax for goods sold. Company “A” is engaged in the business of providing commercial information about the financial condition of businesses to its customers located throughout the United States and abroad. A portion of this information is provided through Company “A’s” Risk Management Solutions database. This database enables customers to access select firmographic and financial information to mitigate credit and supplier risk, increase cash flow and drive increased profitability. Information gathering, analysis, formatting/explanation, and dissemination are conducted at Company “A’s” locations in either State X or State Y.

### **Core service offerings**

For a subscription fee, Company “A” customers will be able to access business information about potential or existing customers and suppliers through Company “A’s” XYZ service offering. XYZ is an interactive, customizable web-based application that will offer users real-time access to Company “A’s” complete and up-to-date global database of more than 110 million businesses for a subscription fee. XYZ’s core service offering will allow customers to

run searches and create customizable reports containing summary trade data, basic credit scores, legal filings, and general company information. For an additional fee, customers will be able to purchase upgraded data packages and workflow add-ons that provide additional data beyond that included with the base core service offering. The additional fees related to the upgraded data packages will not be separately invoiced if purchased simultaneously with the XYZ core service offering, but rather included on the total annual subscription fee as a premium package. This is in contrast to the workflow add-ons which will be separately invoiced and discussed in detail further below. The customer will have the option of purchasing the upgraded data package at a later date, in which case they will receive a separate invoice for the upgraded data packages. These upgraded data packages will come in the form of additional data that will be added to customized user reports. These upgraded data packages will include the following:

### **Upgraded Data Packages**

#### **Enhanced Data Package**

The Enhanced Data Package will include access to data in the form of corporate linkage, visual family tree, and public filing information. Corporate linkage will be additional data in a generate report that displays other related companies to the subject entity. The visual family tree will be a summary of the corporate linkage shown in the form of a graphic or chart. Public filing information will be provided in the form of a summary and history of public filings and financial statements for the subject entity.

#### **Enhanced Analytics Package**

The Enhanced Analytics Package will include access to data in the form of monitoring/alerts, credit limit recommendations, predictive scores, comprehensive credit scores, and fraud scores. Monitoring/alerts will be additional data which show key company information that has changed since the last time the customer viewed the report. The customer will have the ability to receive email notifications of these changes as part of this feature. Credit limit recommendations will be additional data displaying Company “A’s” recommendation of conservative and aggressive credit limit based on Company “A’s” scoring methodology. Predictive scores will be additional data measuring a company’s likelihood for future success. Comprehensive credit scores will be additional data showing details supporting predictive scores. Fraud scores will be additional data which assesses the likelihood that the company making a request for credit is fraudulent.

### Enhanced Trade Package

The Enhanced Trade Package will include Company “A” Program “P”, and a detailed payment data. Company “A” Program “P” will be additional data which will provide the weighted average of past trade payments. Detailed payment data will provide historical payment data including the number of delinquent payments and average high credit. This will be displayed as a section of a generated report displaying trade data by industry and time period reported.

### Small Business Risk Insight

This will be additional data within XYZ that will enable a customer to view data from participating financial institutions on small business lending performance across the banking, credit card, and leasing industries. Small Business Risk Insight will combine the financial performance data with Company “A’s” trade data to create decision-ready insight that can be used across the customer lifecycle for targeting, underwriting and portfolio management/marketing. Small Business Risk Insight will be available to customers who participate in the Small Business Risk Insight program and purchase the Enhanced Trade Package.

### International Data

Customers will be allocated an amount of data that they will be able to access for international entities as part of the XYZ’s core service offering. Once the allotted amount of international data has been exceeded, customers will be charged an additional fee for access of that data.

### Unlimited Data Package

The unlimited data package will allow customers to generate reports with a mix of the above data service options and will allow an unlimited quantity of inquires of the XYZ system.

### **Workflow Add-ons**

In addition to upgraded data packages, users will be able to add to their XYZ service offering by purchasing workflow add-ons for an additional fee. Workflow add-ons will be separately invoiced from the XYZ core service offering and upgraded data packages. Workflow add-ons will include the following:

### Decision-Making Tool

This will be a customizable web-based tool within XYZ that will enable a customer to establish rules and approval limits to automate credit decisions. The decision making tool will allow companies to make immediate credit decisions on new customers. It will provide access to Equifax bureau and will have the ability to input trade and bank references. The decision-making tool will be hosted on the XYZ servers (customer will not receive software to install). The tool will be sold as an optional add-on to someone purchasing XYZ.

### Account Manager

This will be an automated feature that will manage the risk of a customer's entire customer base by blending the customer's credit policy, customer's accounts receivable data and the latest and most complete Company "A" business information. A user will be able to load in a set of accounts and rules to trigger labeling for existing accounts (i.e. a credit indicator drops below a certain level the account gets flagged for review). The Account Manager will be hosted on the XYZ servers (customer will not receive software to install). The tool will be sold as an optional add-on to someone purchasing XYZ.

### Collection Tool

The Collection Tool will be an on-demand tool to help manage overall risk exposure. The tool will enable a user to load in invoice level trade details. The Collection Tool will then provide workflow information related to collection activities. The Collection Tool will be hosted on a 3<sup>rd</sup> party server (customer will not receive software to install). The tool will be sold as an optional add-on to someone purchasing XYZ.

### Online Credit Application

The Online Credit Application will allow the user to create customized credit application to meet their business needs. The application will be displayed on the internet through Company "A's" servers. The data entered into the application will then be fed into XYZ for the user to act on. XYZ will provide internal automatic alerts when an application is submitted. The Online Credit Application will be sold as an optional add-on to someone purchasing XYZ.

### Web Services

This will be a web-based tool within XYZ that will allow for data, decisions, or other account information to be passed back and forth between Company “A” and customer systems. Web Services will allow for the integration of the Decision Making Tool and Account Manager. Web Services will be hosted on the XYZ server (customer will not receive software to install). The tool will be sold as an optional add-on to someone purchasing XYZ core service offering.

### **ISSUES**

1. Will Company “A’s” XYZ core service offering and upgraded data packages be considered electronic information services and therefore exempt from Alabama sales and use tax, or will they be considered canned computer software and therefore subject to Alabama sales and use tax?
2. Will Company “A’s” Decision Making Tool, which will be an add-on to XYZ’s core service offering, be considered electronic information services and therefore exempt from Alabama sales and use tax, or will it be considered canned computer software and therefore subject to Alabama sales and use tax?
3. Will Company “A’s” Account Manager, which will be an add-on to XYZ’s core service offering, be considered electronic information services and therefore exempt from Alabama sales and use tax, or will it be considered canned computer software and therefore subject to Alabama sales and use tax?
4. Will Company “A’s” Collection Tool, which will be an add-on to XYZ’s core service offering, be considered electronic information services and therefore exempt from Alabama sales and use tax, or will it be considered canned computer software and therefore subject to Alabama retailers occupation tax?
5. Will Company “A’s” Small Business Risk Insight, which will be an add-on to XYZ’s core service offering when purchased with the Enhanced Trade Package, be considered electronic information services and therefore exempt from Alabama sales and use tax, or will it be considered canned computer software and therefore subject to Alabama sales and use tax?
6. Will Company “A’s” Online Credit Application, which will be an add-on to XYZ’s core service offering be considered electronic information services and therefore exempt from Alabama sales and use tax, or will it be considered canned computer software and therefore subject to Alabama sales and use tax?

7. Will Company “A’s” Web Services, which will be an add-on to XYZ’s core services offering be considered electronic information services and therefore exempt from Alabama sales and use tax, or will it be considered canned computer software and therefore subject to Alabama sales and use tax?

### **LAW AND ANALYSIS**

Ala. Code §40-23-1(6) provides that sales and use tax is imposed upon gross proceeds derived from renting or making retail sales of tangible or personal property. Unlike sales of personal property, which are generally presumed to be taxable, sales of services are exempted unless specifically designated as taxable. Sales and use tax applies to labor or service charges if they are incidental to making, producing or fabricating a new or different item or preparing the item for sale and a labor or service is performed for the transfer of title to the purchaser. See Ala. Admin. Code 810-6-1-.84. The tax does not apply when the labor or service is billed separately for repairing or altering the property belonging to others. Id.

Ala. Admin. Code 810-6-1-.37, in pertinent part, states the following:

(2) The term “computer software” as used in this regulation shall mean a sequence of automatic data-processing equipment instructions necessary to solve a problem, and includes both system and application programs and subdivisions, such as assemblers, compilers, routines, generators and utilities.

(3) The term “canned computer software” as used in this regulation shall mean software programs prepared, held, or existing for general or repeated use, including software programs developed in-house and is subsequently held or offered for sale or lease. Canned computer software includes software, except custom software programming, regardless of its function and regardless of whether it is transferred to the purchaser in physical form, via telephone lines, or by another alternative form of transmission.

(4) Canned computer software is tangible personal property; and, on and after March 1, 1997, the retail sale or rental of canned computer software is subject to sales, use, or rental tax, whether such transaction was affected by a transfer of title, or of possession or of both, or a license to use or consume. Unless specifically stated otherwise, the licensing of canned computer software is considered a retail sale, and not a rental, and is subject to sales or use tax. The measure of tax upon which the sales, use, or rental tax is to be computed is the total amount received from the sale or rental of canned computer software to the customer.

## HOLDING

Based on the particular facts as presented by the Requestor, the following answers delineate the Department's holding:

### Question 1

The XYZ core service offering and upgraded data packages will provide business and financial information through a database accessed through the internet. The XYZ core service offering and upgraded data packages do not fall within the Department's definition of canned computer software, nor does Alabama impose sales and use tax on electronic business and financial information accessed through a database on the internet. See Ala. Admin. Code 810-6-1-.37. Therefore, Company "A's" XYZ core service offering and upgraded data packages will be considered electronic information services and not subject to Alabama sales and use tax.

### Question 2

Company "A's" decision-making tool, an add-on to XYZ's core service offering, will be a web-based add-on within XYZ that will enable a customer to present rules and approval limits to automate credit decisions run through a database accessed through the internet. The Decision Making Tool will remain on XYZ servers and will not be transferred to customers' computer. The Decision Making Tool does not fall within the Department's definition of canned computer software, and therefore will be considered an electronic information service and not subject to Alabama sales and use tax. See Ala. Admin. Code 810-6-1-.37.

### Question 3

Company "A's" Account Manager, which will be a web-based add-on within XYZ's core service offering, will manage the risk of a customer's accounts receivable data, and the latest and most complete Company "A" business information through a database accessed through the internet. Customers will load in a set of accounts and rules to trigger labeling for existing accounts. The Account Manager will remain on Company "A's" server and will not be transferred to customer's computers. The Account Manager does not fall within the Department's definition of canned computer software. See Ala. Admin. Code 810-6-1-.37. Therefore, the Account Manager will be considered an electronic information service and not subject to Alabama sales and use tax.

#### Question 4

Company “A’s” Collection Tool, which will be an add-on to Company “A’s” core service offering, will be a web-based add-on within XYZ that will enable a customer to load in invoice level trade details. The Collection Tool will then provide workflow information related to collection activities. The Collection Tool will not be transferred to customers’ computers. The Collection Tool does not fall within the Department’s definition of canned computer software. See Ala. Admin. Code 810-6-1-.37. Therefore, the collection tool will be considered an electronic information service and not subject to Alabama sales and use tax.

#### Question 5

Small Business Risk Insight, which will be additional data within XYZ when purchased with the Enhanced Trade Package, does not fall within the Department’s definition of canned computer software. See Alabama Administrative Code 810-6-1-.37. Small Business Risk Insight will combine the financial performance data with Company “A’s” trade data to create decision-ready insight. Small Business Risk Insight will remain on Company “A’s” server and will not be transferred to customers’ computers. Therefore, Small Business Risk Insight will be considered an electronic information service and not subject to Alabama sales and use tax.

#### Question 6

The Online Credit Application will be a web-based tool within XYZ that enables customers to create customized credit applications to meet their business needs. The data entered into the application will be feed into XYZ for the customer to act on. The Online Credit Application will remain on Company “A’s” server and will not be transferred to customers’ computers. The Online Credit Application does not fall within the Department’s definition of canned computer software. See Ala. Admin. Code 810-6-1-.37. Therefore, the Online Credit Application will be considered an electronic information service and not subject to Alabama sales and use tax.

#### Question 7

Web Services, which will be an add-on to XYZ’s core service offering, will be a web-based tool within XYZ that will allow for data, decisions, or other account information to be passed back and forth between Company “A” and customer systems. Web-services will remain on Company “A’s” server and will not be transferred to customers’ computers and allow for the

integration of the Decision Making Tool and Account Manager. Web Services does not fall within the Department's definition of canned computer software. See Ala. Admin. Code 10-6-1-.37. Therefore, web services will be considered an electronic information service and not subject to Alabama sales and use tax.

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Cynthia Underwood, Assistant Commissioner  
Alabama Department of Revenue