

## Publications

### Service Providers Should Not Assume all Services are Nontaxable

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By: **Steven Smiseck**

Service providers often assume that they need not collect sales tax on their services. This can be particularly true when professional services are involved. However, Ohio law is constantly changing, especially for services that incorporate digital or computer-related services. For example, in *Cincinnati Fed. S. & L. Co. v. McClain*, 168 Ohio St.3d 123, 2022-Ohio-725, a bank paid a third party to provide “account processing services,” which included maintaining real-time accounting and transaction tracking. The bank claimed it was purchasing either nontaxable “accounting services” or nontaxable customized software. The Ohio Supreme Court found the services were taxable “automatic data processing” (ADP) or “electronic information services” (EIS). The services did not qualify as nontaxable because the computerized accounting transactions involved the processing of data by computers in accordance with protocols written into software. The transactions were not “personal services” because no individuals (*i.e.*, a human) performed any accounting related services.

Another area that service providers should consider is when a service includes the transfer of tangible personal property. Generally, Ohio looks to the “true object” of a transaction where services and property are bundled together. If the “true object” was for a nontaxable service, and the transfer of property was an inconsequential part of that service, the transaction is not subject to tax. For example, animal boarding may be exempt where the service involves the care and feeding of the animal without separate charge. If the property was the primary purpose, and the service was an inconsequential part of delivering that property, the transaction is taxable.

In short, just because you are a professional or personal service business does not mean that all transactions are nontaxable. The objective of the transaction or even how it is structured may make a difference in whether you should collect sales tax. If in doubt, seek out the advice of a tax law professional.