

Computer Software Developed for Personal Use

Sales and Use Tax Exemption for Computer Software Developed for Personal Use

Tennessee law exempts from sales and use tax computer software developed by a person for that person's own use. Under the version of the law in effect until July 1, 2022, if the user of the software was a business, the exemption only applied when the individual fabricating the software was a direct employee of that business. Direct employees are individuals to whom the business is obligated to issue a federal form W-2 and withhold taxes under the Federal Insurance Contributions Act.

Public Chapter 1065 (2022), effective July 1, 2022, extends the exemption to include fabrication, installation, and repair of computer software performed by an agent of the business. Although an agent is not a traditional employee, the business would control an agent's actions and day-to-day activities in a manner similar to its control over an employee.

For example, an individual employed by a temporary staffing agency who is assigned to a position within

the IT department of the staffing agency's client would be an agent of that client for purposes of this exemption. In this example, the individual employed by the temporary staffing agency is under the control and direction of the client just as an employee would be.

Use of Remotely Accessed Software to Fabricate Personal Use Software Exempt from Sales and Use Tax

The exemption provided in Tenn. Code Ann. § 67-6-387 for access and use of software remaining in the possession of the dealer for the purpose of fabricating other software for personal use is also extended to include the person's agent by Public Chapter 1065 (2022), effective July 1, 2022.

For More Information

Visit www.tn.gov/revenue. Click on Revenue Help to search for answers or to submit an information request to one of our agents.

References

Pub. Ch. 1065 (2022); Tenn. Code Ann. § 67-6-387