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MTF

Proposed Sales Tax on Computer and Data Processing and Custom Software Opens Pandora's Box

The proposal to tax computer and data processing services and custom software is a Pandora's box, raising numerous problems for virtually all businesses in the state, large and small, and seriously undercutting the state's competitiveness.

- A new tax on widely used technology will add to the costs for virtually every business in the state, including professional service firms, technology companies, and many other businesses that provide residents with good, high-paying jobs. The proposal threatens to tax everything from the most basic technological services—for example, designing a custom website—to emerging innovations like health care diagnostics on mobile devices.

  Companies of all sizes rely on technology to improve and grow, and taxing it would add to their costs of doing business. Massachusetts already has the second highest business costs in the country, behind only Hawaii.[1] The state's tax burden on businesses is the fifth highest in the country, according to the January 2013 report from the Greater Boston Chamber of Commerce. The state also ranks near the bottom for its difficult regulatory climate. Since so few other states have a similar tax, it would be one more factor that makes Massachusetts the most expensive place in the 48 contiguous states to run a business.

- The tax is unclear and complex. Computer services and data processing are abstract and hard to define, making the boundaries of this tax blurry and uncertain. At a minimum, the Governor's proposal would tax an enormous swath of technological tools and services such as custom-designed websites, cloud computing, data storage, computer programming, and software installation.

  The current proposal uses nearly a dozen vague categories to describe computer and data processing. With such a nebulous definition, the application of this tax will be almost entirely subject to interpretations that can vary widely from person-to-person, business-to-business, and state-to-state. For example, compare how Texas and Connecticut treat computer and data processing: Texas includes word processing, data entry, payroll and

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[1] Cost of business ranking from Forbes Magazine and CNBC annual rankings.
Sources: *CNBC*. http://www.cnbc.com/id/46414199 (accessed on March 15, 2013).
Forbes Magazine. http://www.forbes.com/best-states-for-business/ (accessed on March 15, 2013).

business accounting data, data search and storage, preparing payroll checks, and preparing W-2 forms. Connecticut covers storing and filing digital information, consulting services, and feasibility services.

In the future the tax will create even more challenges because technology, and the way we use it, evolves constantly. The legislation leaves the door open to expand the tax beyond the categories listed, so the state will always have to decide whether to tax each new innovation. It is not hard to imagine that directives, guidelines, and regulations will need near-constant updating while taxpayers—both those creating the technology and those using the technology—will face ever-growing uncertainty and confusion about which tools and services are subject to the tax.

- The tax targets cutting-edge innovation and has a particularly costly impact on Big Data, the burgeoning technological field that the Governor hopes will be a significant driver of the state's economy.

  Big Data refers to enormous data sets that companies analyze to understand their customers better and make important scientific advances in fields such as weather forecasting, molecular modeling, and genetic sequencing. This sector relies heavily on remote servers to store and save the data, which can only be accessed through the "cloud"—all functions that would be subject to the sales tax under the Governor's proposal.

  The proposed tax would send a strongly negative message to the very industry the state is trying to attract and stymie growth at those Big Data companies already based in Massachusetts, which the Governor's office estimates employ more than 12,000 residents.

- The proposal would tax efforts to improve health care quality and reduce costs—another major administration initiative. Developing electronic health and medical records that can be shared across platforms will transform health care delivery. Whether these applications are custom built and installed at institutions or shared via a software as a service model over the Internet, they would be subject to taxation.

In sum, the proposed tax on computer and data processing and custom software targets industries that drive innovation, productivity, and economic growth and makes locating or expanding in Massachusetts that much more expensive and unattractive for all businesses seeking to compete in the 21st century.