



# NATIONAL CONFERENCE *of* STATE LEGISLATURES

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## **Cloud Based Services Principles**

Cloud Based Services is the general term given to a variety of services that are accessed via the Internet or a proprietary network. Broadly divided into three categories: Infrastructure-as-a-Service (IaaS), Platform-as-a-Service (PaaS) and Software-as-a-Service (SaaS), Cloud Based Services allow users to store data, access software and access services and platforms from almost any device that can access the cloud via a broadband connection. The use of cloud services has greatly increased over the past decade. As a result, states have taken a wide range of positions regarding the way they characterize Cloud Based Services for purposes of applying sales and use tax, some of which are difficult for businesses to understand and comply with. In addition, the inconsistency between the states creates further complexity and confusion.

The National Conference of State Legislatures' Executive Committee Task Force on State and Local Taxation has undertaken a process to study and better understand Cloud Based Services. Based on this effort, the Task Force recommends the following principles for states to consider if developing legislation governing the taxation of Cloud Based Services:

1. To ensure that taxation is equitable, states contemplating taxes on Cloud Based Services should:
  - A. Establish consistent sourcing regimes that recognize the special challenges that cloud computing presents so as to avoid the multiple taxation of individuals or businesses in multiple states; and
  - B. not impose discriminatory taxes on Cloud Based Services.
2. States considering taxes on Cloud Based Services should base their decisions on the nature of the service and not on the nature or type of provider.

3. To ensure that taxation is clear, efficient, and fair, states choosing to impose a tax on Cloud Based Services should:
  - A. Avoid imposing any tax on Cloud Based Services through administrative action and only consider imposing the tax through statutory imposition;
  - B. Carefully draft definitions to provide clarity to buyers and sellers of Cloud Based Services;
  - C. Recognize the broad range of services included in Cloud Based Services and address those differences within the statutory scheme;
  - D. Design any tax impositions only on specific and clearly delineated services or where state statutes provide for broad taxation of services, exclusions or exemptions, if any, for certain Cloud Based Services should be clearly delineated.
  - E. Encourage the involvement of providers of Cloud Based Services in any drafting efforts involving the taxation or sourcing of those services; and
  - F. Provide clear and consistent rules to govern bundled transactions involving Cloud Based Services.