

# NAVIGATING MESMA TAX CHANGES: *Understanding the Impact - and Opportunity - of WA DOR's MPU Exemption Update*



TENACITY PAYS

# NAVIGATING MESMA TAX CHANGES: Understanding the Impact - and Opportunity - of WA DOR's MPU Exemption Update

This white paper provides:

- A breakdown of **how the MPU exemption could apply to MESMA purchases.**
- **Key implications for businesses with historical MESMA purchases.**
- **Steps to preserve and protect the ability to make adjustments.**



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In 2019, the Washington DOR (WA DOR) revised the Code of Washington, Title 82 - Excise Taxes, Chapter 82.08 - Retail Sales Tax with the impact of enabling businesses to exclude, as a due tax, those digital purchases of digital goods, digital codes, digital automated services, prewritten computer software, or services defined as a retail sale in RCW 82.04.050(6) that will be used out of state as a multiple points of use sales tax exemption (MPU exemption). One area of digital purchases that was not addressed in this revision was maintenance agreements.

Recently the WA DOR has been working on clarification and guidance to the referenced 2019 revision to include software maintenance agreements. Such agreements are being classified as Mixed Element Software

Maintenance Agreements (MESMA). In this effort, the WA DOR has drafted an Excise Tax Advisory (ETA) providing new guidance on the application of a MPU exemption to purchases of software maintenance agreements. This new language is especially impactful for Washington companies operating in multiple states and would positively impact purchases that qualify for tax payments in the past as well as establish savings for programs in the future.

Under the proposed update, Washington tax liability would apply only to the portion of a MESMA used within the state, offering companies an opportunity for tax refunds and better future planning, if specific criteria are met.



# Understanding the MPU Exemption and MESMA

## What is the MPU Exemption?

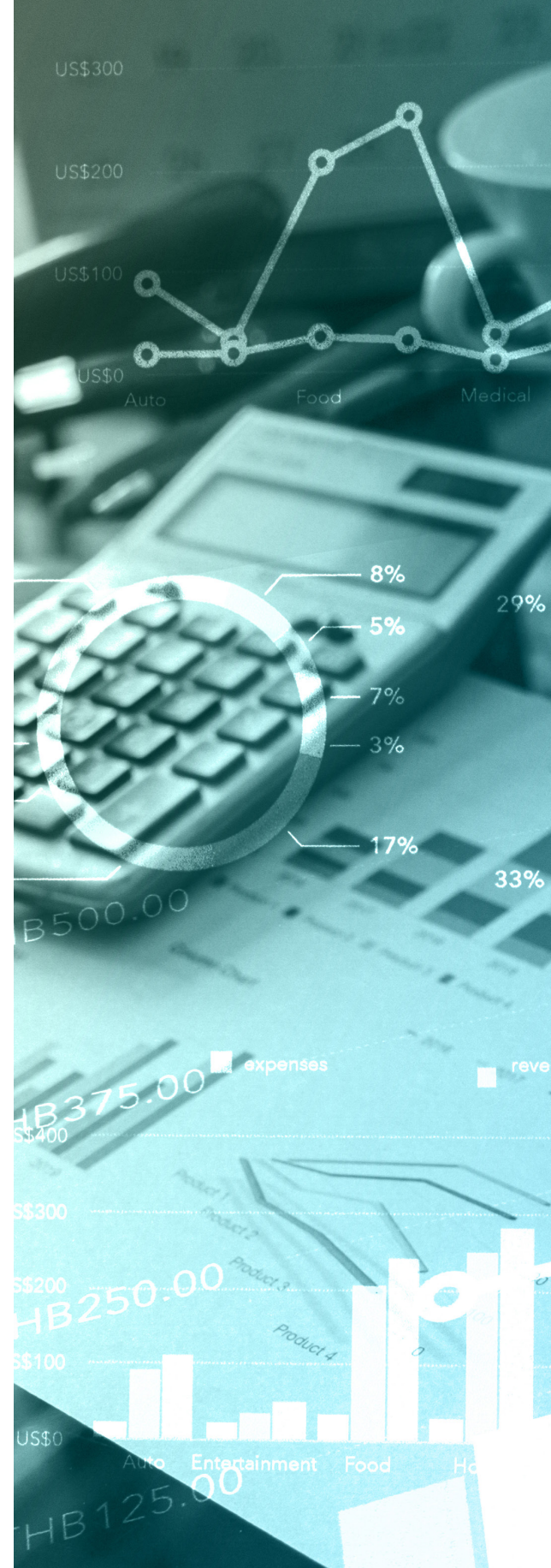
The Multiple Points of Use (MPU) sales tax exemption allows business taxpayers to allocate tax liability across multiple states when software or digital goods are used in different jurisdictions.

**From 2010 and up until the issuance of a previous Excise Tax Advisory (ETA), the value of the maintenance portion of a software agreement has not been addressed and is fully taxed.**

WA DOR's recent Excise Tax Advisory draft provides guidance on the application of the MPU exemption to the sales/purchase of such software maintenance agreements. The software maintenance agreements covered by this ETA involve sales of distinct and identifiable products for one non-itemized price, commonly known as a bundled transaction.

A MESMA that qualifies as a bundled transaction must meet three specific criteria to gain MPU exemption:

1. The MESMA includes one or more MPU-eligible products (e.g., prewritten computer software), and each MPU-eligible product is concurrently available for use inside and outside of Washington.
2. The non-retail taxable products provided under the MESMA relate to the MPU-eligible product(s) of the MESMA (e.g., customer help desk support for the prewritten computer software).
3. The MESMA does not contain any retail-taxable product other than the MPU eligible product(s) that are concurrently available for use inside and outside of Washington.







## What's Changing?

The WA DOR's draft guidance seeks to change how MESMA purchases are taxed:

- + **Previously:** If a business failed to claim the MPU exemption properly, Washington taxed the entire MESMA purchase price.
- + **New Approach:** Washington would only impose tax on the portion of MESMA used within the state, reducing the likelihood of overpayment. However, the MESMA must meet three specific criteria to gain MPU exemption.

If implemented, this change means businesses that historically paid full tax on MESMA purchases in Washington may qualify for refunds and need to adjust compliance strategies going forward.

# Key Implications for Businesses



## ✓ **Potential Refunds for Overpaid Taxes**

Companies that paid full Washington tax on MESMA purchases that should have been allocated across multiple states may be entitled to a post-audit adjustment or refund claim.

## ✓ **Statute of Limitations is going to be 4 years from the issuance of the ETA**

For exemptions that businesses haven't filed in prior years, the Statute of Limitations will allow such exemptions as far back as 2021 tax year. Due to the Statute of Limitations, businesses need to file 2021 exemptions prior to the end of 2025.

For any business where audits were conducted for years prior to 2021 by WA where an audit liability was assessed, such businesses will be able to file for a refund to claim MPU exemptions for MESMA up to the liability amount.

Businesses must act quickly to review their purchase records and submit claims before the deadline.

## ✓ **Strategic Tax Planning for Future Purchases**

Understanding these changes can help companies optimize tax strategies for future MESMA transactions, ensuring correct allocation of software use across multiple states.

# How to Take Action



## 1 Immediately, Review Historical MESMA Purchases

- + Identify all MESMA purchases from 2021 onward that were fully taxed in Washington.
- + Read WA DOR's recent draft Excise Tax Advisory to determine if those purchases should have qualified for MPU treatment.

## 2 Submit MESMA-Related Exemptions Before Deadlines

- + The statute of limitations for 2021 MEMSA purchases is expiring soon. Businesses should work with tax professionals to evaluate eligibility and file claims promptly.

## 3 If Previously Audited and Liabilities Assessed, File a Post-Audit Adjustment

- + For companies with audits in periods prior to 2021 and assessed a liability, a post-audit adjustment can be filed within four years of the audit issued.

## 4 Adjust Compliance for Future MESMA Transactions

- + Implement best practices for tracking software use across multiple states.
- + Ensure correct tax allocations for upcoming MESMA purchases to avoid overpayments.



# WHY WORK WITH CPRS

With over **100 years of combined WA DOR experience**, CPRS has helped companies recover significant overpaid taxes and improve compliance with evolving tax regulations. Our experts can:

- + Conduct a **detailed MESMA audit** to identify overpayments.
- + Guide you through the **refund claim process** before statutes expire.
- + **Ensure future compliance** with MPU exemption rules.



## POWERED BY CUTTING-EDGE TECHNOLOGY

CPRS is at the forefront of innovation, leveraging its proprietary CPRS Pearl™ software stack with Advanced Text Analytics engineered with machine learning tools.



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## REAL-TIME DATA & INSIGHTS

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