

## SALT INSIGHTS

Jurisdiction: North Carolina  
Tax Type: Sales Tax  
Issue: Cloud Services Deemed Taxable Telecom  
Date: April 13, 2020

### SYNOPSIS:

Under a North Carolina Private Letter Ruling (“PLR”)<sup>1</sup>, the North Carolina Department of Revenue (“NCDOR”) determined that a Taxpayer’s gross receipts from cloud-based services and applications provided within the State are deemed taxable telecommunication services.

North Carolina defines telecommunications service as the electronic transmission, conveyance, or routing of voice, data, audio, video, or signals to a point, or between or among points, in which a computer processing application is used to transmit, convey, or route regardless of whether it is voice-over Internet protocol or enhanced or value added- including audio and video programming services provided by a mobile telecommunications service provider.<sup>2</sup> And, telecommunications services are sourced to the State if the place of primary use is in this State.<sup>3</sup> Ancillary services are defined as any service associated with or incidental to the provision of a telecommunications services including three-way calling, conference calling, and voicemail services<sup>4</sup> and are in this State if the telecommunications service to which it is ancillary is provided in this State.<sup>5</sup>

The Taxpayer’s Customer agreement charges a monthly fee whereby the Taxpayer provides owned, leased and licensed hardware and software cloud applications including audio, video, web conferencing, mobile capabilities, signaling and call control services such as routing and circuit selection. Taxpayer further provides remote enhanced functionalities such as maintenance and software updates for Customer’s telecom systems.

### INSIGHT:

Companies providing cloud-based services and applications related to audio, video, and web services, should determine whether any state they operate in might consider these taxable telecom and ancillary services.

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<sup>1</sup> North Carolina, SUPLR 2020-0006; N.C. Gen. Stat § 105-264.2.

<sup>2</sup> N.C. Gen. Stat. § 105-164.3(231).

<sup>3</sup> N.C. Gen. Stat. § 105-164.3(77).

<sup>4</sup> N.C. Gen. Stat. §105.164.3(5).

<sup>5</sup> N.C. Gen. Stat. §105-164.3(27).

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