

ISSUE	NARROW APPROACH	MEDIUM APPROACH	BROAD APPROACH	NOTES/COMMENTS
<b>GENERAL INFORMATION</b>				
<b>General description of the approach / tax base.</b>	Typically a narrow tax base. Limited to TPP and a narrow set of enumerated services. TPP interpreted narrowly and services defined tightly. Definition or interpretation of TPP likely to require some physical component.	Imposition limited to TPP and enumerated services but with a broader definition or interpretation of TPP and broader definitions of services than the narrow approach. Definition or interpretation of TPP will typically not require a physical component.	Typically a broad tax base. Imposition may be on gross income or may be on an expansive set of transactions. If the latter, the base will contain purpose-built modern definitions for modern products and reflect some consideration of drafting legislation and rules to future proof the tax.	
<b>Goal</b>	Develop a base that is clear and unambiguous even if that means one that is fixed and inflexible. A product-by-product approach.	Develop a base that allows some flexibility, while offering some of the certainty that comes with the narrow approach. Sacrifice some certainty and some flexibility in pursuit of the best of both worlds. Ultimately, still a product-by-product approach.	Develop a future-proof tax base to some extent, even if that means sacrificing some degree of certainty.	
<b>General coverage of categories of digital products.</b>	<a href="#">Limited to software and "digital equivalent of tangible personal property" or the Streamlined suite of digital products.</a>	<a href="#">Software and limited cloud products taxed. Taxation of cloud products typically relies on prewritten software, but not always (Iowa).</a>	<a href="#">Custom and prewritten software likely taxed. Numerous services and cloud products taxed.</a>	
<b>Representative jurisdictions and work group members.</b>	Colorado, California, Kansas	District of Columbia, Kentucky, West Virginia, Utah	New Mexico, South Dakota, Washington	
<b>Representative statutory language.</b>	<a href="#">Standard Streamlined Language</a>	<a href="#">Utah Digital Product Definition</a>	<a href="#">Washington Definition</a>	
<b>TAX ADMINISTRATION &amp; ECONOMIC CONSIDERATIONS</b>				
<b>Does the approach adapt to changes in technology and new products in the marketplace in a way that provides clear results?</b>	No. A narrow approach will not adapt to changes in technology and new products. A narrow approach will have little administrative flexibility and will require legislative changes as business evolves.	Likely more administrative flexibility to provide guidance than the narrow approach.	Yes. Broad definitions will allow more administrative flexibility to adapt to changes, but is more nebulous and less clear. Allows tax bases to evolve and develop as business does. Broad approach will not preclude targeted adoption of highly specific definitions; South Dakota is an example.	

ISSUE	NARROW APPROACH	MEDIUM APPROACH	BROAD APPROACH	NOTES/COMMENTS
<p><b>What are the considerations with respect to issuing agency guidance?</b></p>	<p>A specific and narrow statutory definition for each product will reduce the need for administrative guidance. However, as technology evolves, there is pressure to get items into old categories, which can lead to more guidance and difficult questions. Particularly, the question of whether something digital is TPP takes technical expertise the tax agency does not have. Guidance on imposition will be more common than guidance on exemptions.</p>	<p>Potentially highest need for guidance given the mix of taxable goods and services.</p>	<p>A broad approach will increase the need to issue guidance but the difficulty of the guidance may decrease. A broad approach will decrease guidance on imposition and increase guidance on exemptions as more numerous and more complicated exemptions may be needed. Broad approach may need more guidance but will also allow an agency to more freely interpret their laws.</p>	
<p><b>What are the challenges for taxpayers to comply, including international sellers?</b></p>	<p>Overall more certainty and clarity at the outset. Taxpayers may have less risk of getting taxability wrong and less need to ask for guidance given specific statutes. Questionable items will tend to be excluded from taxation.</p>		<p>Overall less certainty and clarity at the outset. There will be less questions about the tax base but depending on the nature and scope of exemptions, there could still be gray areas that require tax agency interpretations.</p>	
<p><b>What is the role of state legislatures across each approach?</b></p>	<p>Greatest need for legislatures to update laws to address new products and business models. Greater legislative policy control. Constant chasing, defining, and categorizing the latest product to pop up.</p>		<p>Least need for legislatures to routinely update laws but will increase pressure on legislature to create exemptions.</p>	
<p><b>Does the approach increase or decrease equity and parity between similar businesses or similar products?</b></p>	<p>Equity and parity are about similarly taxing items that compete with each other. The narrow approach typically will lead to a narrow base, increasing the number of untaxed items, potentially decreasing parity as the economy evolves. Digital substitutes to items that are taxable in their traditional form may remain untaxed.</p>	<p>Equity and parity are about similarly taxing items that compete with each other. The medium approach potentially allows the leeway to tax competing items similarly but while avoiding the expansion of the tax base to digital versions of items that are not taxed in their traditional forms.</p>	<p>Equity and parity are about similarly taxing items that compete with each other. A broader approach typically will broaden the base, increasing parity between digital goods, other categories of goods, and services. However, if the approach taxes digital versions of items that were previously not taxable, there will be less equity and parity.</p>	

ISSUE	NARROW APPROACH	MEDIUM APPROACH	BROAD APPROACH	NOTES/COMMENTS
<b>Is the approach likely to tax products that are similar to untaxed services?</b>	No, a narrow approach based on taxing TPP and few enumerated services is unlikely to tax products similar to untaxed services. With the narrow approach, seeking to increase equity would be piecemeal at best.	Yes.	Yes, if the approach excludes numerous services. However, under a broad approach there may be few untaxed services. But even with the broad approach, the intent should be taxing all retail sales unless exempted. Equity will not happen by accident.	
<b>Does the approach contribute to the stability of the state's overall tax base? Does the approach raise adequate revenue?</b>	A narrow approach would contribute to tax revenue stability in conjunction with other diverse tax types. A narrow approach would not contribute to stability or tax adequacy to the extent one with a broad approach would.		A broader approach will contribute to a stable overall tax base due to its flexibility to address changing products. A broad consumption tax contributes to tax revenue stability and adequacy, especially when coupled with other diverse tax types, and the broader the consumption tax the more it will do so.	
<b>EXEMPTIONS, BUNDLING &amp; SOURCING</b>				
<b>Can the approach accommodate the use of exemptions for certain sales, including business inputs or other business-to-business (B2B) transactions?</b>	Yes. The tax base under a narrow approach would likely be limited to TPP and a few enumerated services, so any exemptions would only need to exempt these things. A narrow approach with specific definitions will allow a state to identify exactly what to exempt. The necessary exemptions may be simpler than under the broad approach.		Yes, but more complicated exemptions may be needed. A broader approach will likely tax more items, so to exempt down to a target level of pyramiding, more items would need to be exempted. In other words, with the broad approach, a state will have to figure out what to exempt. This may lead to more complex exemptions. Iowa's simple exemption is an exception. A broad approach will likely rely on a category separate from TPP, meaning the TPP exemptions won't apply without a specific provision in law, creating more need for new exemptions.	
<b>Does the approach make it more likely that sourcing rules will have to address multiple points of use?</b>	Less likely to have to address MPU because products are less likely to be taxed. Overall, will depend on the extent the state determines to exempt business-to-business sales.	Overall, will depend on the extent the state determines to exempt business-to-business sales.	Yes, because there will be more products in the base, which is not unique to digital products. Overall, will depend on the extent the state determines to exempt business-to-business sales.	
<b>How does the approach affect bundled transactions (combining untaxed and taxed items)?</b>	Under the narrow approach, it is less likely that all components of a bundle are taxable, making the bundling rule more important to taxability.		Under the broad approach, it is more likely that all the components of the bundle are taxable independently, making the bundling rule less important to taxability. Might depend on details of bundling.	

ISSUE	NARROW APPROACH	MEDIUM APPROACH	BROAD APPROACH	NOTES/COMMENTS
<p><b>Does the approach raise unique state or local sourcing issues or require changes in how sourcing is done, generally?</b></p>	<p>Across all approaches, digital products have unique sourcing issues based on the nature of the products and the ways they can be paid for. A narrow approach will likely tax fewer items, necessitating fewer and simpler sourcing rules. Sourcing may be limited largely to TPP, which is relatively simple to source.</p>	<p>Across all approaches, digital products have unique sourcing issues based on the nature of the products and the ways they can be paid for.</p>	<p>Across all approaches, digital products have unique sourcing issues based on the nature of the products and the ways they can be paid for. The broad approach will likely create a broader base and complicate sourcing by increasing the number of different items that must be sourced. Digital products and services are harder to source, so the broader the base the more difficult the sourcing task. A broad approach might tax business purchases, raising the multiple points of use issue. A truly broad approach will allow sourcing to be done first, to determine which state should be considering whether it's included in their base, as the taxability can nearly be assumed.</p>	
<p><b>Does the approach work with existing marketplace facilitator rules?</b></p>	<p>Yes, state marketplace facilitator laws have been formulated given the state's approach, though if the approach changes, the law may need to be updated. The state's marketplace facilitator tax collection rules may need to be amended if the tax collection obligation is intended to include sales of digital products, as some states' marketplace facilitator tax collection rules only extend to marketplace facilitator sales of TPP.</p>	<p>The state's marketplace facilitator tax collection rules may need to be amended if the tax collection obligation is intended to include sales of digital products, as some states' marketplace facilitator tax collection rules only extend to marketplace facilitator sales of TPP.</p>	<p>Yes, state marketplace facilitator laws have been formulated given the state's approach, though if the approach changes, the law may need to be updated. The state's marketplace facilitator tax collection rules may need to be amended if the tax collection obligation is intended to include sales of digital products, as some states' marketplace facilitator tax collection rules only extend to marketplace facilitator sales of TPP.</p>	
<b>ITFA</b>				
<p><b>What are the risks of violating the federal Internet Tax Freedom Act anti-discrimination or Internet access provisions?</b></p>	<p>Risk of violating ITFA's anti-discrimination provision is lower as online items are less likely to be taxable.</p>	<p>Highest risk of violating ITFA's anti-discrimination provision. The medium approach will typically tax more items than the narrow approach but less than the broad approach, increasing the chances of taxing a transaction happening over the Internet but not taxing a similar transaction completed by other means.</p>	<p>If the base is so broad that similar items are taxed, then violation risk is low. But exemptions from taxation can violate ITFA's anti-discrimination provision also. Potential for truly broad approach to be unintentionally violating ITFA, by taxing something under the definition of Internet access, for example.</p>	