GENERAL ASSEMBLY OF NORTH CAROLINA
1997 SESSION


S.L. 1997-370
HOUSE BILL 14


AN ACT TO MODIFY THE SALES TAX DEFINITION OF CUSTOM COMPUTER SOFTWARE.

The General Assembly of North Carolina enacts:

Section 1.  G.S. 105-164.3(20) reads as rewritten:

"(20)  ~~'Tangible personal property' means and includes personal property which~~ Tangible personal property. –  Personal property that may be seen, weighed, measured, ~~felt~~ felt, or touched or is in any other manner perceptible to the senses. The term ~~"tangible personal property"~~ shall does not include stocks, bonds, notes, ~~insurance~~ insurance, or other obligations or securities, nor ~~shall~~ does it include water delivered by or through main lines or pipes either for commercial or domestic use or consumption. The term includes ~~all "canned"~~ or prewritten computer programs, either in the form of written procedures or in the form of storage media on which or in which the program is recorded, held, or existing for general or repeated sale, lease, or license to use or consume. The term does not include the design, development, writing, translation, fabrication, lease, license to use or consume, or transfer for a consideration of title or possession of a custom computer program, other than a basic operational program, either in the form of written procedures or in the form of storage media on which or in which the program is recorded, or any required documentation or manuals designed to facilitate the use of the custom computer program. The term also does not include access to a computer program or a database when the user of the computer program or database receives a separately stated fee or other charge for the access.~~

~~As used in this subdivision:~~

a.    ~~"Basic operational program" or "control program" means a computer program that is fundamental and necessary to the functioning of a computer. A basic operational program is that part of an operating system, including supervisors, monitors, executives, and control or master programs, which consists of the control program elements of that system. A control or master program, as opposed to a processing program, controls the operation of a computer by managing the allocation of all~~

system resources, including the central processing unit, main storage, input/output devices, and processing programs. A processing program is used to develop and implement the specific applications the computer is to perform.

b. "Computer program"means the complete plan for the solution of a problem, such as the complete sequence of automatic data processing equipment instructions necessary to solve a problem, and includes both systems and application programs and subdivisions, such as assemblers, compilers, routines, generators, and utility programs.

c. "Custom computer program"means a computer program prepared to the special order of the customer. Custom computer programs include one of the following elements:

    1. Preparation or selection of the programs for the customer's use requires an analysis of the customer's requirements by the vendor; or

    2. The program requires adaptation by the vendor to be used in a particular make and model of computer utilizing a specified output device.

d. "Storage media"means punched cards, tapes, disks, diskettes, or drums.

computer software delivered on a storage medium, such as a cd rom, a disk, or a tape."

Section 2.  G.S. 105-164.13 is amended by adding a new subdivision to read:

"(43) Custom computer software. – 'Custom computer software' is software written in accordance with the specifications of a specific customer. The term includes a user manual or other documentation that accompanies the sale of the software.  The term does not include prewritten software that can be installed and executed with no changes to the software's source code other than changes made to configure hardware or software."

Section 3.  This act becomes effective October 1, 1997, and applies to sales made on or after that date.

In the General Assembly read three times and ratified this the 28th day of July, 1997.

s/  Dennis A. Wicker
President of the Senate

s/  Harold J. Brubaker
Speaker of the House of Representatives

s/  James B. Hunt, Jr.
Governor

Approved 5:42 p.m. this 6th day of August, 1997