Microsoft Enterprise Agreement – True Up Timing

By Andrew Martin

The Microsoft Enterprise Agreement (EA) provides large organizations with significant licensing and administrative cost savings over traditional off-the-shelf or OEM licenses. Under an EA, a company that has 250 or more desktops can license a standard image (or images, if you know what to ask for), that includes an operating system and productivity suite for every computer in the organization as well as server operating systems, databases, and other software platforms. One of the primary, administrative cost savings under an EA is the yearly true-up process for purchasing new licenses. The true-up process is intended to make it easy to deploy new software over the course of a year without the burden of purchasing the software as it is installed. However, there are differences in the timing of the true up that can complicate the process somewhat.

There generally are two scenarios that companies face after placing the initial order under an EA: 1) deploying additional licenses of previously ordered software, and 2) deploying new software not previously ordered under the EA. For previously ordered software, earlier versions of the EA permitted customers to true up for products or qualified devices or users within 15 days from the anniversary of the last order. The more recent versions of the EA changed the timing by requiring customers to order within 60 to 30 days prior to the anniversary of the last true-up order.

For new software not previously ordered under any EA enrollment, the customer must evaluate whether the software is considered an “additional product” or “enterprise product” under the EA. For additional products, customers are required to place their true-up order in the same month that the product is “first used” or “run,” depending on which version of enrollment the company is under. For enterprise products not previously ordered, customers must include those products in a new enrollment under the EA.

Depending on the specific timing terms included in the original EA, which products were included in the original and subsequent enrollments, and which products are currently being deployed, true-up timing requirements may differ significantly. Timing obligations can change following the original enrollment, and customers may not understand the differences among the timing requirements for the specific products being deployed daily by their IT departments. Late true-up orders can result in penalties to the customer, including a refusal from Microsoft to accept any reductions in transitions or subscription licenses until the following year. Therefore, it is critical to understand how to properly true up under your specific EA.

About the author Andrew Martin:

As an associate attorney with extensive prior experience advising information technology start-ups, Andrew’s practice focuses on finding solutions for his clients’ intellectual property issues. Due to his extensive experience in the software and technology industries, Andrew understands both the practical and legal issues involved in IP licensing agreements and disputes. In addition to licensing, Andrew helps his clients find new ways to use existing technologies to assist his clients in areas such as data privacy compliance. Andrew uses his diverse background which includes founding a record label and working for a world-wide concert promoter when counseling the firm’s entertainment clients.

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