



State and Local Tax Technology Checklist

Guidance from the Third Quarter of 2025

To make recent state and local tax developments related to technology more accessible to our clients, Washington National Tax–SALT has compiled a technology checklist (Techlist) that summarizes state guidance issued during the 3rd quarter of 2025. Topics covered include data center exemptions; data processing; digital equivalents; taxability of software; and telecommunication services. Highlights include:

Maryland: The Maryland Comptroller released several technical bulletins regarding the state's new 3 percent sales and use tax on certain data and information technology services and software publishing services. The bulletins address questions regarding the scope of taxation of services, the treatment of Software-as-a-Service (SaaS), timing matters, and the use of MPU certificates.

Indiana: The Indiana Department of State Revenue ruled that a taxpayer's generative AI chatbot service constituted a nontaxable service. The taxpayer's customers did not gain permanent ownership of prewritten software, and the service did not meet the definition of a taxable specified digital product.

Texas: The Texas Comptroller ruled that a taxpayer's fee charged to fuel stops based on the total sale of discounted fuel facilitated through its mobile app was taxable as a data processing service. The app helped truck drivers find fuel stops with discounted fuel and amenities, generated codes to redeem fuel discounts, and provided fuel stops with downloadable transaction reports. The Comptroller found the app's functions constituted data compilation and manipulation, which fall squarely within the definition of data processing.

Washington: Washington's Department of Revenue issued nine interim guidance statements to assist taxpayers in complying with Engrossed Substitute Senate Bill 5814, which expanded the term "retail sales" to include certain business activities and services that were not previously subject to sales tax. Topics addressed include advertising services, custom software, IT services, live presentations, security services, and temporary staffing.

We will continue to publish the Techlist on a quarterly basis to help keep clients apprised of important developments. If you have any questions about the Techlist, please contact [Audra Mitchell](#) or [Reid Okimoto](#).

State	Category	Development	Authority
Colorado	Streaming Service	The Colorado Court of Appeals ruled that a taxpayer's sales of streaming video content subscriptions constitute tangible personal property subject to the state's retail sales tax. The decision reverses a Colorado district court's April 2024 ruling that the taxpayer's digital streaming service did not meet the statutory definition of tangible personal property. The heart of the case was the interpretation of Colorado's original 1935 definition of tangible personal property, which explained that the term meant "corporeal personal property." The taxpayer argued that corporeal personal property referred only to physical objects that can be seen and touched. The Department of Revenue countered that the term should be understood more broadly to include items perceptible to the senses and capable of being possessed and exchanged, even if not physically touched. The appellate court agreed with the Department, emphasizing that the 1933 edition of Black's Law Dictionary defined "corporeal" to encompass all things perceptible by the bodily senses, not just touch. The court noted that by 1933, legal understanding had evolved to reflect technological advancement, and that images and sounds delivered through the taxpayer's subscription met the 1933 understanding of "corporeal." As such, the taxpayer's streaming subscriptions were subject to tax.	<i>Netflix, Inc. v. Department of Revenue of the State of Colorado</i>
Illinois	Other	The Illinois Department of Revenue recently issued a general information letter addressing the sales and use tax implications for a company providing generative AI services via a cloud-based platform and API. The taxpayer offers access to its proprietary AI chatbot through its website and mobile app, with no software downloaded or transferred to a customer's device by the taxpayer. Additionally, developers may access a free software development kit (SDK) under an open-source license to integrate the chatbot's API into their own applications, but the underlying software remains hosted outside Illinois and is not provided by the taxpayer. Under Illinois' law, sales of services are generally not subject to Retailers' Occupation Tax or Use Tax, and cloud-based software accessed remotely (software as a service) is generally treated as a nontaxable service, provided no tangible personal property is transferred. In the situation addressed, no tangible personal property is transferred by the taxpayer. The Department advised that the transfer of cloud-based software that is never downloaded is not subject to tax, but if a subscriber receives an API, applet, desktop agent, or a remote access agent to enable the subscriber to access the provider's network and services, the subscriber is receiving taxable computer software.	ST 25-0050-GIL

State	Category	Development	Authority
Indiana	Other	The Indiana Department of State Revenue ruled that a company's generative AI chatbot services accessed via web interface or API constituted a nontaxable service. The chatbot services were not taxable prewritten computer software because customers did not have permanent ownership of the chatbot. Further, the chatbot services did not meet the definition of a taxable specified digital product, as the chatbot was not an electronically transferred digital audio work, digital audiovisual work, or digital book.	Revenue Ruling #2025-02-RST
Louisiana	Streaming Services/Digital Equivalent	The Louisiana Department of Revenue has issued guidance clarifying the application of sales and use tax to digital products and related services, effective January 1, 2025. Under this guidance, digital products (e.g., streaming movies, digital books, music, apps, games, and digital codes) are subject to tax when sold or used in Louisiana, regardless of whether they are accessed through download, subscription, or streaming. Taxable services also include prewritten computer access services (such as SaaS subscriptions) and information services, with the guidance providing definitions and examples for each category. The guidance also discusses exclusions for professional services and certain telecommunications charges, as well as exemptions for industries such as healthcare and financial services. The guidance also addresses the tax treatment of bundled transactions, sourcing rules for sales, and procedures for claiming exemptions.	Sales and Use Tax on Digital Products and Related Services
Maryland	Access to Web-based Services	The U.S. Court of Appeals for the Fourth Circuit ruled that the pass-through prohibition provision of the Maryland Digital Advertising Gross Revenues (DAGR) Tax violates the First Amendment. The provision prohibited digital advertisers from directly passing the cost of the tax to customers through a separate fee, surcharge, or line-item. Several trade associations challenged the provision, arguing it infringed on their right to communicate openly with customers about the tax. The Fourth Circuit found that the provision's sole purpose was to suppress speech—specifically, to prevent companies from disclosing and explaining the tax to customers, thereby shielding the state from political criticism. The court emphasized that the ability to criticize government actions, including taxation, is a core First Amendment protection, citing the colonial protests of the Stamp Act as a foundational example of tax-related political speech. Having found the provision unconstitutional, the Fourth Circuit Court of Appeals declined to issue a universal injunction, citing recent Supreme Court precedent that limits the scope of federal court remedies. Instead, the case was remanded to the U.S. District Court for the District of Maryland to determine the appropriate remedy for the plaintiffs.	<i>US Chamber of Com. v. Lierman, 4th Cir., No. 24-1727</i>

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Maryland	Access to Web-based Services	The Maryland Comptroller issued guidance regarding the Digital Advertising Gross Revenue (DAGR) Tax. The tax has been in place since tax year 2022 and is applicable to taxpayers with at least \$1,000,000 in annual gross revenue from digital advertising in Maryland. The rate of tax ranges from 2.5 percent to 10 percent of digital advertising revenues in Maryland, based on the annual global revenues of the taxpayer. This guidance focuses on defining the characteristics that must be present for digital advertising services to be subject to the tax. Specifically, the guidance states that digital advertising services must be both “programmatic” and “conveyed visually.” Programmatic digital advertising is advertising that is automated with limited intervention from a human in the performance of service. The second element is that there must be a visual component of the programmatic advertisement. An advertisement that is programmatic and visually conveyed can also include an audio component, without disqualifying it from being subject to the DAGR tax. However, if an advertisement is conveyed in an entirely audio format, it is not subject to the tax.	Technical Bulletin No. 59

State	Category	Development	Authority
Maryland	Other	The Maryland Comptroller released guidance regarding the 3 percent sales and use tax on certain data and information technology services and software publishing services which took effect on July 1, 2025. The guidance addresses questions regarding what services are taxable, the treatment of software-as-a-Service (SaaS), timing matters, and the use of MPU certificates. Taxable Services—The new law defines the services that are newly taxable by reference to codes described in the 2022 edition of the North American Industrial Classification System (NAICS). If a business provides a service that meets the definition of an enumerated NAICS code, the service will be subject to the new 3 percent tax, even if that is not the business's primary activity. The bulletin also includes a list of services that are subject to the 3 percent tax. Treatment of SaaS—SaaS is considered both a digital product and a taxable software publishing service. The definition of digital product, however, excludes computer software and SaaS for use in an enterprise computer system. Thus, if SaaS is purchased for use in an enterprise computer system, it will generally be subject to the 3 percent rate. If purchased for individual use, it will be treated as a digital product and will be taxed at the 6 percent rate. The exemption for software and SaaS that is customized or configured as required by the buyer was repealed as of July 1, 2025. Timing Matters—For subscriptions, each subscription payment is considered a separate sale for tax purposes, meaning that payments received after July 1 are taxable regardless of when the subscription period began. The date of execution for installment sales and credit sales contracts generally controls the taxability of a payment. Contracts entered into before July 1, 2025, are generally not subject to the tax unless there is a change order or additional services are purchased. If a contract is automatically renewed after July 1, that renewal will be subject to tax. MPU Certificates—Buyers who know, at the time of purchase, that a digital code, digital product, taxable data service, taxable information technology service, or taxable software publishing service will be used concurrently by the buyer both inside and outside Maryland may use MPU certificates for such use or for resale within affiliated groups. If presented, sellers are relieved of tax collection, and buyers assume the obligation to accrue tax.	Technical Bulletin No. 56

State	Category	Development	Authority
Maryland	Other	The Maryland Comptroller issued guidance regarding the use of Multiple Points of Use certificates (MPUs) in connection with the purchase of certain digital products, digital codes, data and information technology services, and software publishing services, effective July 1, 2025. The guidance outlines the procedures that buyers must follow when issuing MPUs and the parameters required for vendors to accept one. Buyers intending to issue an MPU must: (1) register with the Comptroller's office if a buyer does not have an existing sales tax account, but businesses with an existing account are not required to register for a separate account, and (2) submit a request for authorization to the Comptroller. For software subscriptions, one request is sufficient to cover all future recurring payments and automatic renewals where the Maryland apportionment remains the same. Any reasonable method of apportionment that is supported by the buyer's records may be used in estimating the use in Maryland. Buyers are responsible for providing the MPU certificate to the vendor either before or at the time of purchase. Vendors may not accept and will not be relieved from their obligation to collect Maryland sales tax on a transaction if they: (a) fail to verify, through MDTaxConnect.gov, that the buyer was authorized to issue the certificate; (b) "know or should have known" that the sale was not for a qualifying product; or (c) "know or should have known" the sale was not for use both inside and outside Maryland. If a vendor does not accept an MPU certificate, or the buyer chooses not to issue one, the buyer may still seek a refund for any sales tax paid on use of the product that occurred outside Maryland. If no MPU is issued, Maryland sales tax is to be charged on the full price of the product.	Technical Bulletin No. 54
Minnesota	Data Center Exemption	The Minnesota Department of Revenue updated its guidance on Qualified Data Centers, confirming that starting July 1, 2025, purchases of electricity will no longer qualify for exemption unless made by large-scale data centers. The broader sales tax exemption is available for up to 35 years on purchases of enterprise information technology equipment and software used at a data center. In order to qualify for the exemption, data centers must meet specific size, investment, and infrastructure criteria and must also be certified by the Department of Employment and Economic Development (DEED). Generally, facilities must be at least 25,000 square feet and meet investment thresholds ranging from \$30 million to \$250 million, depending on the type of data center. Companies must also maintain documentation showing that exempt software remains loaded and used at the data center facility.	Qualified Data Centers
New York	Telecommunication Services	The New York Division of Tax Appeals (DTA) held that a telecommunications provider's recovery of Federal Universal Service Fund (FUSF) fees, when tied to bundled mobile telecommunications services, was subject to sales and use tax. The DTA ruled that separately stated FUSF fees billed on bundled mobile service plans are part of the taxable "whole service" under the tax law. Distinguishing this case from prior rulings on wireline services, the ALJ relied on the Tax Appeal Tribunal's decision in <i>Matter of Helio, LLC</i> to conclude that FUSF recoveries for mobile telecommunications services cannot be unbundled and must be included in the sales tax base.	<i>In the Matter of the Petition of T-Mobile Northeast LLC</i>

State	Category	Development	Authority
Tennessee	Access to Web-based Content, Services, or Software	In a Revenue Ruling, the Tennessee Department of Revenue determined that a taxpayer's internet-based healthcare practice management products constitute computer software subject to sales and use tax. The taxpayer offered three products (Billing and Claims, Manager, and Transmitter), which were accessed exclusively through a web browser or mobile app, with no software installed on customer hardware. These products facilitated a range of functions, including patient intake, billing, medical records management, patient engagement, and claims follow-up, and their delivery involved substantial human effort from the taxpayer's employees, particularly in billing, claims processing, and document management. In its analysis, the Department found that the Billing and Claims service offering was not subject to sales and use tax. Although this product automated certain administrative functions, the Department explained that the predominant value of this offering lay in the human involvement required to deliver billing and collection services. The software component merely facilitated these services and did not provide independent functionality to the customer. In contrast, the Department determined that the Manager service offering was taxable as remotely accessed computer software. The Department explained that Manager's software functions (i.e., managing health records, configuring information sharing, managing prescriptions, and customizing templates) were integral to the product and formed the essential purpose of the transaction. The Transmitter service offering provided limited communications between parties, but did not qualify as a telecommunications service. The Transmitter service offering was required to be sold in conjunction with either the Billing and Claims offering or the Manager offering. The Department determined that the Transmitter offering was not taxable when sold with the Billing and Claims offering, but taxable when sold with the Manager offering. When all three offerings were sold for one charge, because the Manager offering was taxable, the entire bundled charge was subject to tax.	Revenue Ruling 25-04

State	Category	Development	Authority
Texas	Data Processing	The Texas Comptroller, in a private letter ruling, recently determined that a taxpayer's fee charged to fuel stops based on the total sale of discounted fuel facilitated through the taxpayer's mobile app is taxable as a sale of data processing services. The taxpayer operated a mobile app that truck drivers (Operators) used to locate fuel stops offering discounted fuel, as well as amenities such as showers, parking, and dining options. The app generated numeric codes that Operators used to redeem discounted fuel prices at participating fuel stops. In addition to facilitating purchases, the app provided fuel stops with detailed financial reports that tracked transactional history, which the fuel stops could view and download. Importantly, the taxpayer's Master Services Agreement with fuel stops specified that the taxpayer was not acting as a money transmitter, payment instrument seller, or money services business. The Comptroller concluded that the taxpayer's app performed data compilation, manipulation, and information storage by listing fuel stop locations, fuel prices, and amenities; generating codes to confirm purchases; and producing transaction reports. These activities fall squarely within the definition of data processing. Because the taxpayer did not qualify for the exclusion applicable to payment processors or financial institutions, the fee the taxpayer charged the fuel stops was a data processing service subject to sales and use tax.	PLR No. 20241031152954.
Virginia	Taxability of Software	In a Ruling of the Tax Commissioner, the Commissioner of the Virginia Department of Taxation (Department) explained that it was time to update the Department's documentation standards regarding software delivery. Historically, the Department imposed a rebuttable presumption that software was conveyed in tangible form and therefore taxable. To rebut this presumption, taxpayers were required to provide documentation in the form of a sales invoice, contract, or other sales agreement that expressly certified the software was delivered electronically and that no tangible medium was included in the transaction. Going forward, the Department will presume that software is electronically delivered unless documentation indicates otherwise or software is provided in connection with the sale of tangible personal property. The Department will no longer require taxpayers to provide documentation expressly certifying the electronic delivery of software; however, the Department may request documentation demonstrating that software was not provided in connection with the sale of tangible personal property.	Virginia Public Document Ruling No. 25-98

State	Category	Development	Authority
Washington	Other	The Washington Department of Revenue recently published several new interim guidance statements to assist taxpayers in implementing Engrossed Substitute Senate Bill 5814, enacted earlier this year. ESSB 5814 expands the definition of “retail sale” to include certain business activities and services not previously subject to sales tax, effective October 1, 2025. The Department indicates the purpose of the interim statements is to provide guidance and direction on which taxpayers can rely in complying with the new provisions until permanent guidance is issued. The Interim Guidance Statements released to date address the following services and topics: advertising services, custom software, custom website development, Digital Automated Service (DAS) exclusions, existing contracts, IT services, live presentations, security services, and temporary staffing. In each statement, the Department outlines the new provisions of law and provides examples and explanations designed to clarify common questions, such as sourcing rules, multiple points of use exemptions, stated exclusions, transactions between affiliated entities, “resale” transactions, the appropriate sales tax rate, and the business and occupation (B&O) tax base for the taxable sales.	Interim Guidance Statements

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