



# This Week in State Tax (TWIST)

May 19, 2025



## Mississippi: State High Court Holds that Separate Transaction Involving Freight Not Taxable

In a recent ruling, the Mississippi Supreme Court affirmed that separate third-party freight charges—when the freight service is not provided and charged by the seller of the tangible goods—should not be included in the use tax base of the tangible goods. The Mississippi Department of Revenue (Department) initially sought to tax the third-party freight charges, contending the freight services were a necessary component of the taxpayer's business activities and therefore part of the taxable base for use tax purposes. After protesting the assessment to the Department, the taxpayer appealed to the Board of Tax Appeals, which held in favor of the taxpayer. The Department appealed to the Chancery Court, which upheld the taxpayer's position, and the Department sought review by the state high court, resulting in the instant matter.

The taxpayer was an interstate provider of natural gas transmission services through a pipeline network running from the Gulf Coast to the Northeast. The taxpayer purchased tangible property for use in Mississippi and paid use tax on the purchases. It later paid freight charges to a third party to ship these goods to Mississippi. The Department assessed use tax on the freight charge, arguing that the definition of sales price in the statute includes freight charges and that the taxation of third-party freight charges is not prohibited in the statute. In its review, the state supreme court agreed with the trial court that the freight charges and the charge for tangible goods should be viewed as two separate closed transactions. Relying on state law which provides that "every closed transaction by which the title of taxable property passes shall constitute a taxable event," the court affirmed that the purchase of tangible goods constituted one closed transaction, while the later purchase of third-party shipping service constituted a second closed transaction, and the latter charges were not subject to use tax.

The Department had also appealed a trial court determination that a Fact Sheet the Department had issued on distribution charges was not an "officially adopted publication" that should be accorded deference. Having found that the separate freight charges were not taxable, the supreme court did not address this matter. For questions regarding [Mississippi Department of Revenue v. Tennessee Gas Pipeline Company, LLC](#) please [Randy Serpas](#) or [Christopher Geer](#).

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