



Announcing the Latest “Techlist”:

Guidance from the Fourth Quarter of 2025

States are increasingly attempting to address the application of tax to emerging technology and business models through new law, court cases, and administrative rulings. Tracking developments is critical not only for technology providers, but also for purchasers of technology.

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 fourth quarter of 2025. Topics covered include Data Center Exemptions; Streaming Services; Taxability of Software; and Telecommunication Services. Highlights include:

California: The California Court of Appeal upheld the application of Santa Barbara’s Telecommunications and Video Users’ Tax to internet streaming services. The court ruled that “video services” under the ordinance includes streaming, and rejected claims of violations of the Internet Tax Freedom Act and constitutional provisions.

Colorado: The Colorado Department of Revenue clarified that, starting July 1, 2025, interstate telephone and telegraph services became subject to sales tax. Mobile telecommunications services are taxable if the customer’s primary place of use is within Colorado.

Iowa: The Iowa Department of Revenue released guidance on the state’s sales and use tax incentives for data center investments. Large projects over \$200 million may qualify for full exemptions on equipment, infrastructure, and utilities, while smaller investments can claim partial refunds for up to ten years. Eligibility depends on facility size, sustainability standards, and timely registration and reporting.

New York: The New York Tax Appeals Tribunal affirmed that a pair of taxpayers’ subscription fees for integrated facilities management services were taxable as bundled transactions including prewritten software. The taxpayers’ agreements explicitly licensed the software platform, making it integral to the service package. Because the fees were non-itemized, the entire amount was taxable. The Tribunal rejected applying the primary purpose test, noting the bundle included both tangible personal property and services.

Tennessee: The Tennessee Department of Revenue ruled that subscriptions for a mobile heart health app are subject to sales and use tax as sales of software. The Department determined that the primary purpose of the subscription is access to the app, which tracks health metrics, generates reports, and provides automated wellness guidance. Because these features are delivered by software and not medical professionals, the subscription is taxable.

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
California	Streaming Service	<p>The California Court of Appeal recently upheld the City of Santa Barbara’s application of its Telecommunications and Video Users’ Tax to internet streaming services. The central issue in the case was whether the city’s ordinance, which imposes a tax on “video services,” applies to programming delivered via streaming technology. The taxpayers argued that the ordinance’s definition of “video service” required the use of one or more “channels,” and because a technical understanding of the term “channel” requires a transmission path, a “video service” must exclude internet streaming. However, the court found that the ordinance applied to video programming “regardless of the technology used to deliver, store, or provide such services,” and therefore applied to streaming services.</p> <p>The court further rejected the appellants’ arguments that the tax violated the Internet Tax Freedom Act (ITFA). The court determined that the ordinance did not discriminate against electronic commerce in violation of ITFA, as streaming services are considered a service rather than tangible personal property such as DVDs, and the two types of sales are therefore not “similar.”</p>	<p>Disney Platform Distribution, Inc. v. City of Santa Barbara</p>
Colorado	Telecommunication Services	<p>The Colorado Department of Revenue published guidance in October 2025 clarifying that interstate telephone and telegraph services became taxable as of July 1, 2025. Telephone and telegraph services are subject to sales tax, regardless of whether such service is furnished by public, private, mutual, cooperative, or governmental corporations or agencies. The tax applies broadly to traditional telephone and telegraph services, mobile telecommunications (if the customer’s primary place of use is in Colorado), Voice over Internet Protocol (VoIP), phone cards, call conferencing, routing, switching, and a range of related charges such as private line services, additional listings, information charges, joint-user service, non-talking circuits, leased circuits and facilities, local exchange service, and service connection charges. Universal Services Fund (USF) surcharges and other charges passed on to the consumer are also taxable, except for installation or repair charges. When nontaxable services are aggregated with and not separately stated from taxable services, the provider must collect tax only on the taxable telephone and telegraph services.</p> <p>Mobile telecommunication services are taxable if the customer’s primary place of use is in Colorado, but exempt if the primary place of use is outside the state. Local governments may also impose sales tax on mobile telecommunications service if the customer’s primary place of use is within their boundaries. Certain services remain nontaxable, including installation or repair of lines or equipment, faxing, voicemail, internet access, and email services (though telephone service used to access these may be taxable), as well as certain governmental surcharges like 911, 988, and Telecommunications Relay Services (TRS) surcharges.</p>	<p>Sales & Use Tax Topics: Telecommunications</p>

State	Category	Development	Authority
Iowa	Data Center Exemption	<p>The Iowa Department of Revenue released guidance outlining three key sales and use tax incentives for businesses investing in data centers. For large investments of \$200 million or more, a full exemption applies to purchases of computers, infrastructure, fuel, and electricity, with permanent exemptions for facilities operating before June 6, 2025, and time-limited exemptions for newer facilities. Eligible data centers must be at least 5,000 square feet, meet sustainable design standards, and register with the Department, with annual reporting required.</p> <p>Smaller investments qualify for partial refunds of 50 percent of tax paid on qualifying purchases, capped at 5 percent of the sales price. Facilities investing between \$1 million and \$10 million can claim refunds for the first five years, while those investing \$10 million to \$200 million (or up to \$5 million for rehabilitation) can claim refunds for seven to ten years, depending on the investment amount. Facilities must meet size and lease requirements, and refund claims require timely filing and certification.</p>	Data Center Sales and Use Tax Incentives Department of Revenue
Illinois	Other	<p>The Illinois Department of Revenue issued a Private Letter Ruling clarifying that security monitoring companies transferring equipment as part of service agreements are subject to the Service Occupation Tax (SOT), not the Retailers' Occupation Tax. The ruling confirmed that when property sold has no value to a purchaser except as a result of services rendered by the vendor, then the vendor is engaged in the business of rendering service and not in the business of selling retail. As such, the SOT applies to the tangible personal property provided.</p> <p>Effective January 1, 2025, servicemen who lease tangible personal property as part of a service must pay SOT on the separately stated selling price of the equipment. If the selling price is not separately stated, SOT is due on 50 percent of the total service bill, but not less than the cost price of the equipment. This ruling also provided alternative calculations of a servicemen's liability if they are registered de minimis servicemen.</p>	ST 25-0006-PLR
Illinois	Access to Web-Based Content, Services, of Software	<p>The Illinois Department of Revenue issued a General Information Letter that supersedes a previous letter, clarifying sales and use tax guidance for companies providing generative AI services and cloud-based software. The taxpayer offers access to its AI platform via website and app, with customers also able to access a free API product. Customers must utilize a software development kit (SDK) to access the API product. The SDK license, accessible via the cloud or via download, is based on an open-source license and is offered free of charge. The taxpayer does not deliver software or programming code to customers in Illinois.</p> <p>Under Illinois law, sales of services and cloud-based software accessed remotely (i.e., software as a service) are generally not subject to Retailers' Occupation Tax, Use Tax, or Service Occupation Tax, provided no tangible personal property is transferred. The Department explained that if a customer downloads free software from an out-of-state server, separate from a subscription of cloud-based software, the retailer has exercised no power or control over property in Illinois, and Use Tax is not due.</p>	ST 25-0057-GIL

State	Category	Development	Authority
Mississippi	Telecommunication Services	<p>The Mississippi Department of Revenue issued guidance detailing the changes in fees to telecommunications service providers and fees for prepaid wireless communications effective January 1, 2026. The Mississippi Department of Revenue will implement new emergency communications service charges under Senate Bill 2835, replacing prior fees. The updated structure introduces a \$2 monthly fee for each residential and commercial telephone subscriber line, each VoIP account, and each CMRS connection.</p> <p>For prepaid wireless transactions, the law replaces the previous \$1 wireless telecommunications charge with a \$2 fee per transaction, effective January 1, 2026. This fee is collected by the seller with respect to each retail transaction.</p>	<p>Notice 72-25-17 Notice 72-25-16</p>
Missouri	Streaming Services	<p>The Missouri Court of Appeals recently affirmed a lower court ruling that certain streaming service providers are not liable to the City of Creve Coeur for Video Service Provider (VSP) fees under the Missouri Video Service Provider Act (VSPA). As enacted in 2007, the VSPA excluded from the purview of the VSP "... any video programming provided solely as part of and via a service that enables users to access content, ... or other services over the public Internet." In 2018, the City of Creve Coeur brought an action against several video providers arguing their services involved delivery via direct internet service provider-to-subscriber connections, thus bypassing the "public internet" and bringing the service within the scope of the VSPA.</p> <p>In 2024, the Missouri legislature amended the VSPA to explicitly exclude "streaming content" from being subject to the VSP fee. The trial court held that the legislative amendment to the VSPA was not a substantive change but instead clarified the video service definition. The city appealed. The appellate court found that the 2024 amendment to the VSPA did not substantively change the law. The court concluded that the legislature never intended the VSPA to apply to streaming platforms and that the 2024 amendment made that intent explicit.</p>	<p>City of Creve Coeur, Mo. v. DirecTV LLC.</p>

State	Category	Development	Authority
New York	Taxability of Software	<p>The New York Tax Appeals Tribunal upheld an administrative law judge holding that subscription fees charged by two related taxpayers for facilities management services constituted bundled transactions which included prewritten software and were thus taxable. The taxpayers provided integrated facilities management to large retail clients, and clients paid a single, non-itemized subscription fee for access to the platform. On audit, the Department of Taxation and Finance determined that the taxpayers' services constituted taxable sales of prewritten software bundled with services. The taxpayers appealed.</p> <p>On appeal, the Tribunal found that the taxpayers' management agreements explicitly licensed the software platform to customers and that the software was integral to the service package. The primary purpose test did not apply because the transaction involved a bundle of tangible personal property (i.e., prewritten software) and services, not a bundle of services for which the primary function test could be used to determine taxability. The Tribunal further determined that the taxpayers' services were a taxable information service because the taxpayers' reports incorporated aggregated anonymous data for benchmarking and compared each customer's metrics to those of other customers.</p>	In the Matter of FacilitySource LLC
North Carolina	Telecommunication Services	<p>A North Carolina telecommunications retailer won a partial victory in a dispute over tax on prepaid wireless cards. During the first audit period, cards sold by the retailer could only be redeemed for prepaid wireless services from a telecommunications provider—a taxable product. However, the retailer later modified its agreement with the provider by expanding the products that could be purchased using the cards to include a variety of nontaxable products. The Department of Revenue determined that the retailer was required to remit sales and use tax for cards sold during both periods (i.e., before and after the modification of the agreement).</p> <p>An Administrative Law Judge (ALJ) disagreed, ruling that the retailer was only responsible for tax during the period in which the cards could only be redeemed for prepaid wireless services, but the state Business Court overturned that ruling and upheld the determination of the Department of Revenue. The state Supreme Court overturned that decision and upheld the decision of the ALJ. The state Supreme Court held that, for this second period, the retailer was not responsible for collecting sales tax at the point of sale; instead, the telecommunications provider should have collected and remitted sales tax when (and if) the cards were redeemed for taxable products.</p>	N.C. Dep't of Revenue v. Wireless Ctr. of N.C., Inc., (S. Ct. N.C., No. 272A23)

State	Category	Development	Authority
Tennessee	Taxability of Software	<p>The Tennessee Department of Revenue ruled that a taxpayer’s mobile healthcare solution subscription is subject to sales and use tax as a sale of software. The taxpayer provides a service that enables users to monitor their heart health via a mobile app. Clients pay an annual subscription fee and, in turn, make the service available to their employees and their employees’ dependents. The Department found that the primary purpose (i.e., true object) of the subscription is access to the health-tracking mobile app. The app’s software tracks participants’ health metrics, generates reports, and provides wellness guidance. All these features are automated, and none are performed by medical professionals or other employees. In the Department’s view, the mobile app was the “objective that is being accomplished” in the taxpayer’s mixed transactions with its customers. As such, the true object was the taxable sale of remotely accessed software.</p> <p>The Department also found that the subscriptions were not exempt from taxation as information or data processing services because there was no raw data (absent the monitor and the app) converted into a readable form and subsequently processed by a computer.</p>	Tennessee Revenue Ruling 25-08
Washington	Access to Web Based Services	<p>The Washington Court of Appeals affirmed a Board of Tax Appeals decision denying a taxpayer’s refund claim centered on the apportionment of service income for business and occupation (B&O) tax purposes. The taxpayer, a consulting firm based in Washington, provided IT and localization services to a customer with a large international presence. The Department of Revenue determined that the benefit of the services was received by the customer in Washington, making the income taxable in the state. The taxpayer contended that its services benefited its customer’s international markets and should not be taxed in Washington. The appellate court, agreeing with the Board’s analysis, found insufficient evidence to support the taxpayer’s claim and upheld the Department’s apportionment approach.</p>	Valente Sols., LLC v. Dep’t of Revenue

Some or all of the services described herein may not be permissible for KPMG audit clients and their affiliates or related entities.

Learn about us:



[kpmg.com](https://www.kpmg.com)

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act upon such information without appropriate professional advice after a thorough examination of the particular situation.

© 2026 KPMG LLP, a Delaware limited liability partnership, and its subsidiaries are part of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved. The KPMG name and logo are trademarks used under license by the independent member firms of the KPMG global organization. USCS038409-1A