This Week in State Tax (TWIST)

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North Carolina: Digital advertising works delivered via cloud are taxable says DoR

The North Carolina Department of Revenue recently issued a Private Letter Ruling addressing the taxability of a company's digital marketing and graphic design services. The taxpayer provides strategic marketing, brand development, and creative design services under retainer-based service agreements. The service produces unique digital assets and intangible strategies that are custom developed to client specifications and delivered via a secure cloud platform or by email. No physical goods are created or shipped by the taxpayer to its clients.

The Department determined that the taxpayer's sales were subject to North Carolina sales and use tax because the taxpayer's activities most closely resembled those of an advertising agency. Advertising agencies are considered retailers under North Carolina law when they produce items that they sell at retail for any purpose other than resale, including sales of certain digital property and taxable services. The Department concluded that the digital assets created by the taxpayer were taxable digital property because they included digital audiovisual works, and that some of the taxpayer's services appeared to meet the definition of repair, maintenance, and installation services for such digital property. Further, the taxpayer would not be able to exclude any nontaxable "professional" services from the sales tax base because it did not separately state its charges to clients. Finally, the Department noted that as the taxpayer had no physical presence in North Carolina, it qualified as a remote seller and would be required to register, collect, and remit sales and use tax if its gross sales from digital products exceeded $100,000.

Please contact Nicole Umpleby with questions about SUPLR 2026-0004.

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