

State Tax Alert

July 2025

State Sales and Use Tax Quarterly Update - July 2025

Ernst & Young LLP's Sales and Use Tax Quarterly Update provides a summary of recent major legislative, administrative and judicial sales and use tax developments.

Maryland Comptroller issues final emergency regulations implementing new 3% tax on data and information technology services; new tax became effective July 1, 2025

On May 29, 2025, the Maryland Comptroller released draft emergency regulations implementing the State's new 3% sales and use tax on data and information technology services, which became effective on July 1, 2025. The regulations list all services that will be subject to the new tax by referencing the NAICS² codes noted in [HB 352](#) and include examples of how the new tax will apply to relevant transactions. Final emergency regulations are expected to be released later this month.

Most notably, the new tax will apply to transactions involving software as a service (SaaS), data processing, and custom computer software publishing. Under current law, SaaS is excluded from the state's 6% sales tax if used in an enterprise environment solely for commercial purposes. Such SaaS transactions will be subject to the new 3% tax, while SaaS transactions that do not meet the legacy exclusion will continue to be subject to tax at the 6% rate. A sale of cloud computing to "qualified cybersecurity businesses"³ is exempt from the new tax. Similarly, custom computer software, which enjoyed a broad exemption under prior law if the software did not work as intended "out-of-the-box," is now subject to the tax.

The regulations allow purchaser to issue multiple points of use (MPU) certificates to their vendors if, at the time of purchase, know that they will concurrently use the taxable goods and services in multiple jurisdictions or resell the goods and services in their original form to a related entity. Purchasers must be authorized by the Comptroller to issue the MPU certificates to their vendors, and vendors who receive the MPU certificates are relieved from collecting the tax. The process for obtaining authorization to issue an MPU certificate is outlined [here](#). The purchaser must use a reasonable and uniform apportionment methodology to determine the amount of tax due in Maryland and must self-assess and pay the tax upon purchase.

The regulations note that for contracts and licenses entered into before July 1, 2025, the tax will not apply even if payment and/or delivery are made after that date. However, if the contract or license calls for periodic subscription payments to be made, any post-July 1 payments will

be treated as separate transactions and be subject to the new tax. For contractors making purchases to fulfill a third-party contract, the operative date for determining whether the tax applies is the date of purchase of the taxable goods or services by the contractor, and not the date of the third-party contract.

To the extent necessary, the Comptroller will issue further guidance in the form of notices and bulletins.

Our Observation: The Comptroller has noted that the new tax does not alter the structure or operation of the existing sales and use tax but merely extends its application to additional goods and services – albeit at a lower rate. Nevertheless, taxpayers that are contemplating entering into a long-term contract for affected goods and services may want to consider accelerating those transactions to limit the impact of the new tax. As noted, if the contract or license is completed before July 1 and does not require periodic subscription payments, the entire value of the contract will fall outside of the scope of the tax, even if payment and delivery is made after July 1. The draft regulations note that the use of resale certificates for affected transactions will remain the same as for those that historically have been subject to the state's sales and use tax.

Other Recent Sales and Use Tax Developments

Nexus and Marketplace

Utah: New law ([SB 47](#)), effective July 1, 2025, modifies Utah's economic nexus provisions by repealing the 200 or more separate transaction threshold. Under the revised law, nexus will be created for a seller that sells tangible personal property, electronically transferred products, or services for storage, use or consumption in Utah if in the prior or current calendar year, the seller's gross revenue from such sales is more than \$100,000. Similarly, a marketplace facilitator must pay or collect and remit tax if in the prior or current calendar year, its sales of tangible personal property, electronically transferred products, or services that are made on its own behalf or facilitated on behalf of one or more marketplace sellers, exceeds \$100,000. Marketplace sellers also must collect and remit tax for sales of tangible personal property, electronically transferred products, or services if its sales, other than through a marketplace facilitator, in the prior or current calendar year exceed \$100,000. Utah Laws 2025, SB 47, signed by the governor on March 25, 2025.

Tax Base and Taxability

Colorado: In response to a ruling request regarding the taxability of event cancellation fees that included the use of a hotel banquet hall and catering, the Colorado Department of Revenue (CO DOR) determined that such fees are not subject to Colorado state and state-administered

local sales and use taxes. The CO DOR explained that when an event is cancelled no taxable event occurs because the event organizer is not making a retail sale of tangible personal property, commodities or services. In this case, the event organizer did not serve or furnish food or drink. Further, use of a banquet room is not a service explicitly subject to Colorado sales tax. Colo. Dept. of Rev., [GIL 25-003](#) (March 24, 2025).

Colorado: In response to a ruling request, the Colorado Department of Revenue (CO DOR) determined that fees charged by a company for electric vehicle (EV) charging at EV charging stations it operates are not subject to Colorado sales tax. Under Colorado law, sales tax is imposed on electric services. The CO DOR explained that “electric services commonly means the regular or ongoing delivery of electricity by a utility ... [t]he service is not merely the discrete or occasional sale of electricity at a point in time, but continuous access to electricity at the customer’s location on demand.” The CO DOR found that the company’s sales are discrete, one-time sales and, as such, do not fall within the common meaning of electric services. Charging station operators that are not making taxable sales, however, must pay state sales tax on the electric services they purchase. Colo. Dept. of Rev., [GIL 25-002](#) (February 10, 2025).

Illinois: In response to a ruling request related to tariffs, the Illinois Department of Revenue (IL DOR) said that in computing the Retailers’ Occupation Tax (ROT) liability, federal importation taxes (e.g., tariffs) may not be deducted from gross receipts or selling price of the person making the retail sale. The IL DOR explained that “if the seller is the consignee (importer) and passes the amount of the tariff on to the customer, it is part of the selling price, and the amount of the tariff must be included in the gross receipts.” The IL DOR noted that in this instance, the tariff is a cost of business to the importer and are not deductible in computing the ROT liability on a subsequent retail sale, even if separately stated on bill to the customer. The tariff is not part of the selling price for purposes of computing the customer’s Use Tax liability when the customer as the end-user is the consignee. Ill. Dept. of Rev., [ST 25-0022-GIL](#) (April 7, 2025).

Mississippi: New law ([HB 1](#)) impose a 5% sales tax rate on food or drink for human consumption not purchased with federally provided food stamps, but that would be exempt from tax under Miss. Code Section 27-65-111(o) if the items were purchased with food stamps. This rate applies starting July 1, 2025. Miss. Laws 2025, HB 1, signed by the governor on March 27, 2025.

Mississippi: New law ([SB 2805](#)) expands the scope of any tax levied on gross proceeds or gross income from room rentals of hotels or motels under the authority of a local and private law (hereafter, “local law”) of the State of Mississippi to include gross proceeds or gross income of any entity or individual engaged in the business of facilitating, arranging, brokering a room intended or designed for dwelling, lodging or sleeping that at any one time will accommodate transient guests. When tax levied and collected under local law on gross proceeds or gross income of hotels or motels is the same or similar to the state’s sales tax, the gross proceeds or gross income of the person facilitating the room rental is also subject to tax under the local law.

The definition of “hotel” for purposes of any tax levied and collected under local law, is expanded to include “entities facilitating, arranging or brokering transient guest transactions.” Such entities are third-party entities that facilitate rentals of hotel accommodations by listing or advertising room availability and either directly or indirectly through agreements with third parties, collect payment from the customer and transmit it to the property owner or manager. These changes take effect July 1, 2025. Miss. Laws 2025, SB 2805, signed by the governor on March 24, 2025.

South Carolina: The South Carolina Department of Revenue (SC DOR) issued a revenue ruling to provide sales tax guidance to retail businesses and certain industries withdrawing items from inventory for its own use. Under South Carolina law, a retailer’s withdraw of tangible personal property previously purchased at wholesale from its inventory for its own use or consumption is considered a retail sale subject to the state’s sales tax, unless an exclusion applies. The tax base upon which sales tax on the withdrawn inventory is calculated is the “gross proceeds of sales,” which includes the fair market value (FMV) of the withdrawn inventory (i.e., the price the property is offered for sale by the retailer withdrawing the item). Further, if the retailer offers a discount to customers on the retail price of the item, the retailer also may deduct any cash or other customary discount provide to customers from the FMV when determining the tax base. If the retailer transfers tangible personal property purchased at wholesale to a customer for no or nominal consideration or at amount significantly below cost (collectively “nominal consideration”), such property is presumed to be a promotional item withdrawn from inventory and used or consumed by the retailer. In this instance, tax would be based on the property’s FMV. If, however, the item is withdrawn for use or consumption in connection with the retailer’s business at nominal consideration, then tax is based on the price the retailer paid when it purchased the item at wholesale. The guidance list various withdrawals excluded from sales tax - either as an exclusion from “gross proceeds of sales” or from “sale at retail” or “retail sale.” Such exclusions include withdrawals previously withdrawn and taxed; tangible personal property that becomes an ingredient or component part of tangible personal property manufactured or compounded for sale; tangible personal property used to replace defective parts underwritten in warranty contracts; automobiles from dealership inventories that are furnished at no cost to high schools for student driver training or used by a dealership as a demonstrator; tangible personal property used directly in manufacturing, compounding or processing such property for sale; and materials, containers or bags used incident to the sale and delivery of tangible personal property. An operator of a dual business, i.e., makes both retail sales and withdrawals for use from the same stock of goods that are purchased at wholesale, must report sales tax on the retail sales and withdrawals of inventory based on the FMV of the items. The SC DOR noted that “the dual business regulation only applies to those retail businesses that have a substantial number of retail sales.” The guidance discusses special provisions that apply to certain business operations and industries, including renting or leasing, airport fixed based operators, selling ice, hotels whose room price includes complimentary breakfast, railroads, and provision of ophthalmologist, oculists and optometrists services. The

guidance includes examples. The revenue ruling is effective for all periods open under the statute. S.C. Dept. of Rev., [Revenue Ruling #25-3](#) (March 20, 2025).

Texas: The Texas Comptroller of Public Accounts (Comptroller) issued a memo to provide guidance on the application of the state's sales and use tax to solid materials extracted or severed from the earth such as sand, dirt, gravel and rock. The Comptroller said that "taxability determinations discussed ... in this memo will be applied prospectively beginning July 1, 2025." The Comptroller noted that some materials that were previously determined to be nontaxable may be treated as taxable, processed materials because they were extracted from the earth and/or washed, dried or separated in a way that caused a chemical or physical change. The Comptroller further said the guidelines in the memo "should be followed by Audit and Hearings and Tax Litigation to resolve open and future assignments." The memo addresses taxability determinations for sellers of materials and purchasers of materials, for periods before July 1, 2025 and for periods on or after July 1, 2025. The Comptroller indicated that it would amend Rule 3.300 to incorporate the content of this memo. The Comptroller also lists several letter rulings and Comptroller's Decisions this memo supersedes or partially supersedes. Tex. Comp. of Pub. Accts., [Star No. 202505004M](#) (May 16, 2025).

Washington: On May 20, 2025, Washington Governor Bob Ferguson signed several tax-related bills into law that expand the tax base for Business & Occupation (B&O) and sales and use tax purposes. Most notably, [SB 5814](#) expands the sales and use tax base to cover additional services, including:

- Custom software and customization of prewritten computer software
- Information technology (IT) consulting, training, and support
- Custom website development
- Data processing and data entry
- Advertising services
 - "Advertising services" is defined as "all digital and nondigital services related to the creation, preparation, production, or dissemination of advertisements including ... online referrals, search engine marketing, and lead generation optimization, web campaign planning, the acquisition of advertising space in the internet media, and the monitoring and evaluation of website traffic"
 - Advertising services does not include web hosting services and domain name registration, and advertising services rendered in respect to newspapers, print, radio, television, and out-of-home advertising such as billboards and other place-based advertising
- Security and investigation services
- Temporary staffing services, except for qualifying hospitals
- Live presentations both in-person and via electronic means

The bill also expands sales of taxable digital automated services by eliminating exclusions for:

- Any service that primarily involves the seller's application of human effort
- Data processing services
- Advertising services
- Live interactive online presentations

SB 5814 creates an exclusion from sales tax for telehealth and telemedicine services and for sales of specified services between members of an affiliated group, including IT services, custom website development, data processing and entry, advertising, security and investigation services.

For additional information on this development, see EY Tax Alert [2025-1125](#) (May 22, 2025).

Wisconsin: In a tax bulletin, the Wisconsin Department of Revenue explained that the additional fee retailers charge consumers that pay with a credit card (i.e., credit card fee) is part of the sales price of taxable products and services sold to the consumer. Thus, if the product or service that is sold is subject to tax, the credit card fee also is subject to tax. If both taxable and nontaxable products and services are purchased with a credit card, the retailer may allocate the credit card fee between the taxable and nontaxable purchases. Only the portion of the credit card fee allocated to the taxable purchases is subject to tax. Wis. Dept. of Rev., [Tax Bulletin 229](#) (April 2025).

Exemptions, Exclusions and Refunds

Alabama: New law ([HB 253](#)) exempts from sales and use tax the gross receipts from (1) sales of aircraft replacement parts, components, systems, sundries and supplies affixed to, used on, or that became part of, aircraft brought into the state and used, or to be used, by certified or licensed air carrier to undergo conversion, reconfiguration or general maintenance while temporarily in Alabama; and (2) sales of aircraft delivered in Alabama and used, or to be used, by certified or licensed air carriers, provided that such aircraft will not be hubbed in Alabama. The law describes when a “aircraft” will be considered not permanently domiciled in the state. In regard to the privilege or license tax imposed on businesses that lease or rent commercial aircraft within Alabama, the law provides that the tax levy on gross proceeds, including the initial lease or rental payment and all subsequent lease and rental payments, is determined based on the aircraft’s location when it first entered into revenue service. An exemption similar to the sales and use tax exemption described in (1) above also applies to the state’s lease or rental tax. The above exemptions do not apply to county or municipal sales and use taxes or rental or lease taxes unless the local governing board approves a resolution or ordinance. These exemptions are available from September 1, 2025 to August 31, 2030. HB 253 takes effect on June 1, 2025. Ala. Laws 2025, Act 240 (HB 253), signed by the governor on April 30, 2025.

Alabama: New law ([HB 152](#)) temporarily exempts from state sales and use tax purchases of baby formula, baby bottles, baby wipes, other baby-related supplies, maternity clothing and menstrual hygiene products for personal use. The state sales tax exemption applies to periods beginning on September 1, 2025 and ending on August 31, 2028. Local governments, by resolution or ordinance, may exempt these products from county or municipal sales or use taxes. The Alabama Department of Revenue is authorized to adopt rules and develop any necessary forms, worksheets and instructions. HB 152 takes effect on September 1, 2025. Ala. Laws 2025, Act 152 (HB 152), signed by the governor on May 9, 2025.

Arizona: New law ([HB 2639](#)) extends through December 31, 2028 (from December 31, 2026) the transaction privilege tax exemption for purchases of qualifying equipment by a qualified business for harvesting or processing qualifying forest products removed from qualifying projects. To receive the exemption, the qualified business at the time of purchase must present its certification approved by the department. The law takes effect 90 days after the legislature adjourns sine die. Ariz. Laws 2025, ch. 135 (HB 2639), signed by the governor on May 6, 2025.

Arkansas: New law ([HB 1807](#)) modifies the sales and use tax exemption for aircraft held for resale and used for rental or charter to clarify that the exemption is available to any person that is engaged in the business of selling aircraft in Arkansas, holds a retail sales tax permit, and *holds aircraft in stock for resale*. (Italics indicates language that was added to the statute.) The law adds a definition of “business of selling aircraft” to mean “the purchase of aircraft for stock in trade and the management of aircraft inventory for the primary purpose of generating a profit from the resale of aircraft to customers.” An exemption also applies to a transaction in which a person acquires an aircraft to rent or lease in the ordinary course of its business if it can establish that the annual amount of gross revenue from renting or leasing the aircraft, including revenue from related party transactions, equals at least 7.5% of the net acquisition price for the aircraft. The net acquisition price includes the value of any trade or exchange and excludes any sales commission paid to a third party. Lastly, the law provides that the exemption applies regardless of the relationship between the lessor and lessee. These changes take effect on the first day of the calendar quarter following the Act’s effective date, with the Act taking effect 90 days after the legislature adjourns sine die. Ark. Laws 2025, Act 879 (HB 1807), signed by the governor on April 17, 2025.

Arkansas: New law ([SB 568](#)) creates a sales and use tax exemption for lithium resource development. The exemption is available to a qualified firm that invests in a qualified facility.¹ To claim the exemption, a qualified firm must apply to the Department of Finance and Administration (Department). To qualify for the exemption, a firm must create a minimum

¹ A “qualified facility” is one that is owned or operated by a qualified firm that: (1) creates a qualified investment of at least \$100 million within Arkansas no later than 10 years after the start of the facility’s construction; (2) annually pays total direct and indirect compensation of at least \$3 million to employees within Arkansas over two calendar years following the calendar year in which the facility commences operations; and (3) has received a positive cost-benefit analysis from the Arkansas Economic Development Commission for the facility.

qualified investment of at least \$100 million within the state no later than 10 years after the start of construction of the qualified facility subject to the application. The Department will deny or grant the application in whole or in part within 30 days after receiving a completed application. If the application is approved, the Department will transmit an approved financial incentive certificate to the qualified firm. Once the Department confirms that the required minimum qualified investment has been met, it will issue a rebate to the qualified firm for any state sales or use tax paid on the eligible facility costs used to determine the qualified investment. Items that qualify for the sales and use tax exemption include the following: (1) lithium, cathode, anode, lithium battery, and grid storage facility equipment; (2) services purchased for the purpose of and in conjunction with developing, acquiring, constructing, expanding, renovating, refurbishing, and operating a qualified facility; (3) electricity used by a qualified facility; and (4) equipment, materials and products for the further processing of materials used in manufacturing lithium, cathode, anode, lithium battery, and grid storage facility equipment in the state. The following items are excluded from the exemption: equipment, materials, products, land, and services purchased, leased or rented for extraction of salt water. The incentive certificate may be revoked if certain conditions are met. These provisions take effect October 1, 2025. Ark. Laws 2025, Act 1012 (SB 568), signed by the governor on April 22, 2025.

Arkansas: New law ([HB 1685](#)) exempts gross receipts or gross proceeds from the sale of food and food ingredients from state sales and use taxes but allows such items to continue to be subject to taxes levied by municipalities and counties. “Food and food ingredients” do not include prepared food. The term “prepared food” does not include the following: (1) food that is only cut, repackaged or pasteurized by the seller; or (2) eggs, fish, meat, and poultry, as well as foods containing these raw animal products that require cooking by the consumer to prevent food-borne illnesses as recommended by the FDA. These changes take effect on and after January 1, 2026. Ark. Laws 2025, Act 1008 (HB 1685), signed by the governor on April 22, 2025.

Arkansas: New law ([SB 200](#)) expands the gross receipts tax exemption for textbooks and other instructional materials to include instructional materials that are leased for use in interscholastic extracurricular activities or administration or maintenance of a school. A gross receipts tax exemption also is provided for textbooks, library books and other instructional materials that are leased by an Arkansas public school district or an Arkansas public school that receives state funding or for free distribution to an Arkansas public school district or an Arkansas public school. (Exemptions already apply to such items that are purchased). SB 200 takes effect 90 days after the legislature adjourn sine die. Ark. Laws 2025, Act 329 (SB 200), signed by the governor on March 18, 2025.

Arkansas: New law ([HB 1851](#)) updates the sales and use tax exemption for the sale of food in public, common and high schools, and college cafeterias and dining facilities (changed from lunch rooms). The law provides that for purposes of this exemption such entity will not be

considered as operating for profit if it contracts for services or management from a third party operating for profit. This change is effective on the first day of the calendar quarter following the Act's effective date, with the Act taking effect 90 days after the legislature adjourn sine die. Ark. Laws 2025, Act 714 (SB 200), signed by the governor on April 16, 2025.

Georgia: New law ([HB 153](#)) extends through June 30, 2031 (from June 30, 2026) the sales and use tax exemption for maintenance and replacement parts for machinery and equipment, stationary or in transit, used to mix, agitate, and transport freshly mixed concrete in an unhardened state. Items the exemption applies to includes, but is not limited to, mixers and components, engines and components, interior and exterior operational controls and components, hydraulics and components, all structural components, and all safety components. The exemption does not apply to motor fuel used as energy in the concrete mixer truck. HB 153 takes effect on July 1, 2025. Ga. Laws 2025, Act 80 (HB 153), signed by the governor on May 9, 2025.

Indiana: New law ([HB 1601](#)) expands the state's sales and use tax exemption for data centers to include projects for investments in quantum computing research, advanced computing, and defense infrastructure network. Quantum computing research, advanced computing, and defense infrastructure network means "quantum safe fiber network between two ... or more facilities using qualified equipment to create and connect qualified facilities to a quantum safe fiber network" that create minimum qualified investment of at least \$50 million within five years of the issuance of the specific transaction award certificate. The specific transaction award certificate, which allows for tax exempt purchases, will expire 25 years after it is issued, or 50 years in the case of a qualified data center user that invests \$750 million or greater or for quantum computing research, advanced computing, and defense infrastructure network operator that makes a \$50 million or greater investment within three years of the issuance of the certificate. The law defines new terms, including "quantum safe fiber network equipment," and modifies several existing definitions and data center-related provisions to include references to quantum computing research, advanced computing, and defense infrastructure network. HB 1601 took effect upon passage. Ind. Laws 2025, P.L. 178 (HB 1601), signed by the governor on May 1, 2025.

The effective date related to "eligible costs" for quantum computing research, advanced computing, and defense infrastructure network has been modified by [HB 1001](#) (enacted May 6, 2025). Specifically, the sales and use tax exemption for eligible costs applies to expenditures made after January 1, 2026 (from May 1, 2025) for the development, acquisition, construction and operation of a facility to be used as part of a quantum computing research, advanced computing, and defense infrastructure network that is connected by quantum safe fiber network equipment and used for specified purposes. Ind. Laws 2025, P.L. 213 (HB 1001), signed by the governor on May 6, 2025.

South Dakota: New law ([HB 1245](#)) exempts from state sales and use tax gross receipts from certain services to a partnership. Specifically, the exemption applies to gross receipts from services rendered by: (1) a natural person to a business taxed as a partnership in which the natural person is an owner; (2) a limited liability company (LLC), which has no employees and is wholly owned by a natural person, to a business taxed as a partnership in which the LLC is an owner; and (3) a corporation, which is wholly owned by a natural person and has no employees other than its owner, to a business taxed as partnership in which the corporation is an owner. HB 1245 takes effect on July 1, 2025. S.D. Laws 2025, HB 1245, signed by the governor on March 17, 2025.

Tennessee: New law ([SB 925/HB 1181](#)) extends through June 30, 2027 (from June 30, 2025) the exemption from sales and use tax for purchases and leases of all equipment, machinery, software, ancillary components, appurtenances, accessories or other infrastructure that is used in whole or in part to provide broadband communications services or internet access. The exemption does not apply to a retail sale of personal consumer electronics (e.g., smartphones, computers and tablets, Wi-Fi routers, consumer-grade modems). Broadband communications services are defined as telecommunications services, mobile telecommunications services, video programming services and direct-to-home satellite television programming services. Tenn. Laws 2025, ch. 449 (SB 925/HB 1181), signed by the governor on May 9, 2025.

Utah: New law ([SB 213](#)) exempts from sales and use tax certain purchases or leases of an operator of a qualifying energy storage manufacturing facility (i.e., a facility that manufactures, in Utah, equipment or devices that store and discharge energy to provide electrical power). Effective July 1, 2025, the exemption applies to amounts paid or charged by such operator for: (1) the purchase of tangible personal property incorporated into equipment or a device that stores and discharges energy at the qualifying energy storage manufacturing facility, and (2) the purchase or lease of machinery, equipment, or normal operating repair or replacement parts if such items are used exclusively in the facility's operation. Utah Laws 2025, SB 213, signed by the governor on March 26, 2025.

Utah: New law ([HB 79](#)) creates a sales and use tax exemption for purchases of adaptive driving equipment for motor vehicles. "Adaptive driving equipment" is defined as "mobility enhancing equipment: (1) to be installed in a motor vehicle; and (ii) regardless of who provides the equipment or parts." Such equipment includes wheelchairs or scooter lifts, swivel seats, equipment used to secure wheelchairs, hand or foot controls, and steering aids. A vehicle dealer collects sales tax on the purchase price of the vehicle after subtracting the amount of the purchase price attributed to the adaptive driving equipment. The dealer must state the purchase price attributed to the adaptive driving equipment on the contract of sale. HB 79 takes effect on October 1, 2025. Utah Laws 2025, HB 79, signed by the governor on March 25, 2025.

Virginia: New law ([HB 2675](#) and [SB 871](#)) extends through 2028 (from 2025) the expiration date of the retail sales and use tax exemption for an advertising business's purchases of printing materials from a Virginia printer for distribution outside the commonwealth. HB 2675 and SB 871 take effect on July 1, 2025. Va. Laws 2025, ch. 307 (HB 2675) and ch. 318 (SB 871), both bills signed by the governor on March 21, 2025.

Virginia: New law ([HB 1729](#) and [SB 942](#)) extends through July 1, 2030 (from July 1, 2025) the sales and use tax exemption for parts, engines and supplies used for maintaining, repairing or reconditioning aircraft or any aircraft's avionics system, engine or component parts. For purposes of this exemption, aircraft includes both manned and unmanned systems; manned systems, however, only include aircraft with a maximum takeoff weight of at least 2,400 pounds. The new law takes effect July 1, 2025. Va. Laws 2025, ch. 137 (HB 1729) and ch. 152 (SB 942), both bills signed by the governor on March 19, 2025.

Virginia: New law ([HB 1698](#)) extends the sunset date of the sales and use tax exemption for prescription medicine and drugs purchased by veterinarians and administered or dispensed to patients within a veterinarian-client-patient relationship through July 1, 2028 (from July 1, 2022). HB 1698 takes effect on July 1, 2025. Va. Laws 2025, ch. 188 (HB 1698), signed by the governor on March 21, 2025.

Transactions and Services

Colorado: The Colorado Department of Revenue (CO DOR) released a proposed draft new rule that would provide guidance on sales tax on leases - Special Rule 47. Under the general rule, leases of tangible personal property in Colorado are subject to Colorado state and state-administered local sales taxes, with certain exemptions. The draft rule provides that a lessor's purchase of property for a long-term lease is a wholesale sale that would be exempt from sales and use tax if it falls within the definition of "wholesale sale" under C.R.S. 39-26-102(19)(a) and meets the requirements for the exemption in C.R.S. 39-26-713(2)(b). To be considered a wholesale sale, the primary purpose for acquiring the property would have to be to lease the property in an unaltered condition and unused by the lessor or any related party. The exemption would not apply if the lessor used or intends to use the property or provide the property to a related party for use. Regarding short-term leases, the lessor would be able to purchase the property tax free only if the CO DOR grants written permission to do so, and the lessor agrees to collect applicable Colorado and state-administered local sales taxes on the leases. Permission to purchase tax-free property for short-term lease would apply to all property subsequently purchased by the lessor for short-term leases. The draft rule would provide that long-term lease payments are subject to Colorado and state-administered local sales taxes. Short-term lease payments also would be subject to Colorado and state-administered local sales taxes unless the lessor paid the applicable taxes upon the property's acquisition. Subleases would be leases subject to this rule; subleases may qualify for certain exemptions. Sale-leaseback transactions would not be considered a lease for sales tax purposes. The draft rule

would provide guidance on a lessor's responsibilities, including licensing and registration and collection of tax. Sales of previously leased property would be subject to Colorado and state-administered local sales taxes in the same manner as any other sales of used property. The rule would define key terms, including "lease" (and lists what the "lease" does not include), "long-term lease," "related party," "state-administered local sales taxes," "short-term lease" and "sublease." Click [here](#) for more on the draft rule.

Technology and Digital Taxes

Arkansas: New law ([HB 1444](#)) amends the sales and use tax exemption for qualified data centers and expands the exemption to include qualified large data centers. The definition of "qualified data center" is amended to: (1) include any addition to or expansion of a data center facility; (2) reduce the amount of qualified investment created to at least \$100 million (from \$500 million) no later than five years after construction of the facility begins; (3) allow the aggregate annualized compensation be paid directly or indirectly to individuals performing services (changed from employees), including compensation paid by contractors of qualified firms; and (4) add a new requirement that the qualified data center is owned or operated by a qualified firm that is not primarily engaged in adding transactions involving virtual currency to a distributed ledger at the facility. The law adds a new definition for "qualified large data center." A qualified large data center is a facility, including any addition to or expansion of, that "is developed, acquired, constructed, expanded, rehabilitated, renovated, repaired, or operated to house a group of networked computer servers in two ... or more nonadjacent physical locations that are connected to each other by fiber and associated equipment ..." A qualified large data center must be owned or operated by a qualified firm that (1) creates a \$2 billion qualified investment at the facility no later than 10 years after the construction of the facility begins, (2) makes an aggregate annualized compensation of at least \$3 million, and (3) is not primarily engaged in adding transactions involving virtual currency to a distributed ledger at the facility. A qualified large data center also must receive a positive cost-benefit analysis from the commission. Various definitions and provisions that mention "qualified data center" now refer to "qualified data center or *qualified large data center*." The definition of "data center equipment" is expanded to mean "computer equipment, software, *and related equipment and services* purchased or leased *either for immediate use or stored for future use in this state* for the processing, storage, retrieval, or communication of data" If a qualified data center or qualified large data center fails to meet the aggregate annualized compensation the approved financial incentive certificate for the qualified firm that owns or operates the data center will be revoked. Likewise, the approved financial incentive certificate for the qualified firm will be revoked when the qualified large data center it owns or operates fails to meet its investment requirement; however, eligibility for the exemption will continue if each facility within the qualified large data center independently meets the requirements of a qualified data center. This change is effective on the first day of the calendar quarter following the Act's effective date, with the Act taking effect 90 days after the legislature adjourn sine die. Ark. Laws 2025, Act 548 (HB 14440), signed by the governor on April 10, 2025.

Georgia: The Georgia Department of Revenue (GA DOR) adopted new [Rule 560-12-2.118](#) “Digital Products, Goods, and Codes,” to provide guidance on the application of the state’s sales and use tax on sales or uses of certain digital products, digital goods, digital codes and internet access services. Starting January 1, 2024, the state’s sales and use tax is imposed on retail purchases/sales of specified digital products, other digital goods or digital codes to end users in Georgia, if (1) the end user receives the right to permanently use such products, goods or codes, and (2) the transaction is not conditioned upon continued payment by the end user. The rule provides that a seller confers the right of permanent use to the end user if they allow the end user to download and retain the product, even when the end user’s right of permanent use is contingent upon their continued payment. Tax also is imposed on an entire transaction that contains both non-fungible tokens (NFTs) and taxable specified digital products, other digital goods or digital codes. Tax applies regardless of whether possession of the specified digital products, other digital goods or digital codes is maintained by the seller or a third party. The new rule addresses the following topics: (1) how to source receipts from sales of specified digital products, other digital goods or digital codes; (2) exemptions and exclusions that apply to internet access services, certain sales of prewritten computer software transferred electronically or delivered by load and leave, software as a service, and certain subscriptions for which the end user does not receive the right of permanent use of the specified digital products, other digital goods or digital codes or such right to use is conditioned upon continued payment by the end user; (3) when a sale of specified digital products, other digital goods or digital codes is a sale for resale; and (4) when tax applies to a withdrawal of specified digital products, other digital goods or digital codes from inventory. The rule also defines key terms, including “specified digital products” (e.g., audio, visual, audio-visual, books, code), “other digital goods” (e.g., artwork, magazines, newspapers, photos, video games, periodicals, video or audio greeting cards, electronic entertainment), “end user,” “prewritten computer software,” “software as a service,” “subscription,” and “transferred electronically.” The rule, which was adopted on April 16, 2025, took effect on May 6, 2025.

Kansas: New law ([SB 98](#)) creates a sales tax exemption for eligible investments in a qualified data center that may be claimed by a qualified firm on and after July 1, 2025. The exemption is available for eligible data center costs of the qualified data center and labor services to install, apply, repair, service, alter or maintain data center equipment. To qualify for the exemption, the qualified firm must commit to: (1) submit an application as required by the Secretary of Commerce and enter into an agreement with the Secretary upon approval; (2) commit to (i) invest \$250 million in a qualified data center costs by the fifth year of operation, (ii) begin construction of the project within 10 years of the agreement with the Secretary, (iii) purchase electricity for 10 years from a public utility that provides retail electric services, and (iv) undertake practices that will conserve, reuse and replace water; and (3) create and maintain at least 20 new jobs at the data center within two years of beginning operations. If the Secretary determines that a qualified firm has breached the terms or conditions of the agreement, the qualified firm will have 120 days to cure the breached terms or conditions. If the qualified firm

fails to cure the breach within the allotted time, the Secretary may require the qualified firm payback the amount of sales tax exemption it has received, terminate the exemption, or suspend all or part of the exemption. The sales tax exemption is valid for 20 years after the date of commencement of operations. Before awarding any benefits or public financial assistance to a qualified data center project, the Secretary must receive approval from the fusion center oversight board. The law defines several terms including “commencement of construction,” “commencement of operations,” “data center equipment,” “eligible data center costs,” “new jobs,” “qualified data center,” “qualified firm,” “Department” and “Secretary.” New or expanded qualified data center facilities are not eligible for electric rate discounts a public utility may authorize. SB 98 takes effect on July 1, 2025. Kan. Laws 2025, ch. 124 (SB 98), signed by the governor on April 24, 2025.

Practice, Procedure, Policy, Controversy and Compliance

Alabama: New law ([HB 386](#)) on September 1, 2025 reduces the state sales and use tax rate on food to 2% (down from 3%). The law also eliminates the provision that limited the amount by which a county or municipal governing body could reduce the general or retail sales tax rate on food for local sales and use taxes to 25% in any year a growth threshold was met. HB 386 takes effect on June 1, 2025. Ala. Laws 2025, Act 305 (HB 386), signed by the governor on May 9, 2025.

Alabama: New law ([HB 191](#)) changes how local tax jurisdictions conform to new or amended state sales and use tax exemptions. Under HB 191, any new law that enacts or amends a sales and use tax exemption will apply only to the state-level sales and use tax. The new or amended exemption does not apply to county or municipal sales and use taxes (collectively, “local sales and use tax”), unless all of the following are met: (1) the law provides for an exemption of local sales and use tax; and (2) a county or municipality by resolution or ordinance approves the exemption. The resolution or ordinance also must (1) include an effective date of September 1 of a given year for the local sales and use tax exemption and (2) provide for a duration that is in fiscal year increments or in perpetuity. A county commission must give the Alabama Department of Revenue notice of the resolution or ordinance by the July 1 before the local sales and use tax exemption’s effective date. A county or municipality through the same resolution or ordinance process, may rescind a local sales and use tax exemption, provided certain conditions are met. The Alabama Department of Revenue will maintain a list of local jurisdictions adopting each new and amended sales and use tax exemption. These provisions do not modify or supersede the process by which state and local sales and use tax exemption certificates are issued. HB 191 took effect immediately. Ala. Laws 2025, Act 280 (HB 191) signed by the governor on May 6, 2025.

Idaho: New law ([HB 144](#)) exempts “small sellers” from having to obtain a sales and use tax permit or collect and remit state sales and use tax. For purposes of this exemption a small seller is “an Idaho resident making sales that do not exceed ... \$5,000 ... in cumulative gross receipts

in the current or previous calendar year.” A small seller does not include a partnership, corporation or limited liability corporation. The exemption does not apply to sales of motor vehicles, trailers, all-terrain vehicles, utility vehicles, certain off-road vehicles and motorcycles, snowmobiles, aircraft, certain vessels, tobacco, alcohol, and items purchased to be sold or incorporated into items that will be sold. Small sellers that exceed the \$5,000 threshold have 30 days to file with the state tax commission an application for a temporary seller’s permit and start collecting tax. This change takes effect on July 1, 2025. Idaho Laws 2025, ch. 86 (HB 144), signed by the governor on March 17, 2025.

South Dakota: New law ([HB 1037](#)) suspends the tax collection allowance credit for filing returns and remitting taxes under S.D. Codified Laws Section 10-45-27.2. The suspension runs July 1, 2025 through June 30, 2028. S.D. Laws 2025, HB 1037, signed by the governor on March 28, 2025.

Tennessee: New law ([SB 384](#)), effective July 1, 2025, modifies the local hotel occupancy tax to require a hotel operator to remit the tax when a person has maintained occupancy for 30 continuous days. The operator must cease collecting the tax from the person for the remainder of their stay in the hotel. This change took effect upon becoming law and applies to rental agreements entered into, renewed or amended on or after July 1, 2025. Prior to this change, an in effect through June 30, 2025, when a person has maintained occupancy for 30 continuous days, the entire rental term is exempt from local occupancy tax. In this instance, the operator is required to provide a refund or credit for tax previously collected. As of July 1, 2025, the local hotel occupancy tax for the first 30 days will no longer be refunded or credited. Another law ([SB 629](#)) prohibits the rate of the local hotel occupancy tax imposed by a municipality from exceeding 4% of the consideration charged to a transient by the hotel operator, provided that on or after May 5, 2025 (the law’s effective date), a municipality may not increase the tax in an amount that would result in the cumulative tax in an incorporated area of a county exceeding 8%. A local hotel occupancy tax that exceed this limit may remain in full force and effect if it was levied or authorized before May 1, 2025. Tenn. Laws 2025, ch. 364 (SB 384) and ch. 372 (SB 629), both bills signed by the governor on May 5, 2025; see also, Tenn. Dept. of Rev., [Notice #25-07](#) “Short-Term Rental Unit - 30 Day Occupancy” (May 2025).

Utah: New law ([SB 91](#)), effective January 1, 2026, allows a county to impose up to a 1% tax on sales of alcoholic beverages, food and food ingredients, or prepared food sold by a restaurant as well as customized prepared food sold by a convenience store, a gas station, or a grocery store. Under prior law, counties could tax such sales made by a restaurant. Utah Laws 2025, SB 91, signed by the governor on March 25, 2025.

Virginia: New law ([HB 2383](#)) clarifies that an accommodations provider is not required to transmit a return to the tax-assessing officer of a county, city or town if: (1) all retail sales of accommodations owned by the accommodations provider are facilitated by an accommodations

intermediary, and (2) the accommodations provider attests that all such sales were facilitated by the accommodations intermediary. The attestation is effective for 12 months and will be due annually on the date required by the locality. Accommodations providers, however, must transmit returns for retail sales of any accommodation not facilitated by an accommodations intermediary. HB 2383 takes effect on July 1, 2025. Va. Laws 2025, ch. 458 (HB 2383), signed by the governor on March 24, 2025.

Washington: The Washington Department of Revenue (WA DOR) issued an [Excise Tax Advisory](#) (ETA) on the application of multiple points of use (MPU) sales tax exemption (MPU exemption) to sales of software maintenance agreements (SMA).² The ETA covers SMAs that involve bundled transactions. Generally, a SMA is one between a software vendor and a customer that requires the vendor to provide technical support and updates for an existing software product, including software upgrades and fixes and support services related to prewritten software. Per the ETA, retail sales tax generally applies when a single nonitemized price is charged for the sale of an SMA that provides both retail-taxable and -nontaxable products, unless the charge for the taxable products is a de minimis part of the SMA. (This type of SMA is referred to as a mixed element SMA.) SMAs that only provide retail-nontaxable products are not subject to retail sales tax. If the taxable and nontaxable elements are separately stated on binding sales or other sales-related documents made available to the customer within an SMA, then each activity is “taxed according to the nature of the activity.” The ETA describes the application of the MPU exemption, noting that purchases of products eligible for the MPU exemption include digital goods, prewritten computer software, remotely accessed prewritten computer software, digital automated services, and digital codes. The ETA explains (1) when a mixed element SMA that qualifies as a bundled transaction and is otherwise subject to retail sales tax is eligible for the MPU exemption, and (2) how to apportion and pay use tax for qualified MPU transactions (with specific guidance when there is one MPU-eligible product and multiple MPU-eligible products). The WA DOR has the authority to authorize or require the use of an alternative apportionment method that fairly reflects the proportion of in-state to out-of-state use by the taxpayer. The ETA includes illustrative examples and describes documentation requirements. Wash. Dept. of Rev., ETA 3242.2025 (issued March 27, 2025).

² This ETA does not apply to transactions to which RCW 82.04.050(8)(b) applies - i.e., services provided exclusively in connection with the seller’s sale of digital goods, digital codes or digital automated services.

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