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US Indirect Tax Digest

# Highlighting indirect tax developments

April 2026

Welcome to the US Indirect Tax Digest. We highlight significant sales and use tax legislative enactments, regulatory adoptions, judicial decisions, and administrative guidance. We hope that you find the digest valuable and look forward to your feedback.

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## In this issue



# Alabama temporarily suspends state sales tax on food beginning May 1, 2026

Alabama Act 2026-604 suspends the state portion of the sales and use taxes on food for a two-month period, beginning May 1, 2026 through June 30, 2026. City and county sales and use taxes on food are not affected. The Alabama Department of Revenue issued Notice: Temporary Suspension of State Sales and Use Tax on Food on April 17, 2026.

The temporary suspension of the state sales and use tax on food requires retailers to immediately implement modifications to comply with the changes and reduce any impact to their customer base. Retailers should review their existing tax processes to identify an efficient way to comply with the requirements given the short time to implement the complex changes.

Retailers are required to report the gross sales of qualifying food items on the state return as part of the gross proceeds of sales. The qualifying food sales would then be deducted prior to calculating the state sales tax. Local tax reporting remains unchanged.

Alabama adopts the definition of “food” cited in 7 U.S.C. Section 2012, for purposes of the federal Supplemental Nutrition Assistance Program. This definition generally includes food or food products for home consumption, with certain limitations.

***Observation:*** The suspension of the state portion of the sales and use tax creates complexity for retailers when determining how to implement this temporary rate change that applies only to a limited group of products. Additional complexities arise from the requirement to identify the gross sales that are impacted by this change. Retailers need to analyze whether amounts billed to consumers are properly charged to reduce any potential risks or exposure.

## South Carolina Supreme Court affirms tax liability on marketplace third-party sales

The South Carolina Supreme Court on March 18, 2026, affirmed an Administrative Law Court and Court of Appeals decision that the taxpayer was liable for tax on products sold by third-party merchants through the taxpayer’s online marketplace website in 2016. The court stated there was no question that taxes were due on third-party sales. The question before the court was whether the taxpayer was required to collect and remit those taxes. The taxpayer contended that (1) it served as a conduit between merchants and customers, not a party "engaged . . . in the business of selling," (2) the statute lacked a limiting standard and would sweep in incidental service providers, (3) any ambiguity must be resolved in the taxpayer's favor, and (4) the assessment effectively applied the 2019 marketplace facilitator statute retroactively, violating due process.

The court held that (1) the statutory phrase "engaged . . . in the business of selling," not the definition of "seller," determined who must remit sales tax, (2) the taxpayer’s business model, including its control over pricing, listings, returns, and proceeds, made it integrally involved in every sale, (3) the statute provided a "stopping point” distinguishing it from incidental service providers, (4) the statute was unambiguous as applied, and (5) no due process violation occurred because the Department applied the law as written in 2016.

***Observation:*** Chief Justice Kittredge dissented, concluding both parties had reasonable interpretations of the statute and that the ambiguity should have been resolved in the taxpayer’s favor. Since collection responsibilities were addressed with the adoption of the 2019 marketplace facilitator statute, the decision is most significant for pre-marketplace-facilitator periods.

*Amazon Services LLC v. South Carolina Department of Revenue*, South Carolina Supreme Court, case number 2024-000625 (3/18/26)

# Washington State repeals tax on certain services enacted under ESSB 5814

Engrossed Substitute Senate Bill 6346 (ESSB 6346) enacted on March 30, 2026 to become effective on January 1, 2029 as part of the Washington State Tax and Investment Act, repeals many of the recently enacted provisions of ESSB 5814, which expanded the retail sales tax and business and occupation (B&O) tax to several categories of services. ESSB 6346 also restores key Digital Automated Service (DAS) exclusions, while leaving advertising services taxable.

Washington's ESSB 5814, enacted in 2025, expanded the retail sales tax and retailing B&O tax base to a broad group of services beginning October 1, 2025. Those services include advertising services, custom software and software customization, data processing, website development and support, certain IT support and training services, temporary staffing, security services, and live presentations. The legislation also removed several exclusions from the DAS rules for services primarily involving human effort, advertising services, and data processing.

For more information, see Washington State enacts significant tax legislation.

Businesses will need to comply with the tax on the expanded services under current law until the repeal becomes effective on January 1, 2029. The tax on advertising services remains unaffected and is not part of the appeal.

## Repeal of specified services from "sale at retail" and "retail sale"

Effective October 1, 2025, ESSB 5814 expanded the definition of "sale at retail" or "retail sale" to encompass a range of services. ESSB 6346 removes most service categories from that definition effective January 1, 2029. The following table summarizes changes to the taxability of services under ESSB 5814 and ESSB 6346.

| Service | Taxed Under ESSB 5814 (2025) | Repealed Under ESSB 6346 (2026) |
|---|---|---|
| Advertising services | Yes | No |
| Custom website development | Yes | Yes |
| Investigation / security / security monitoring / armored car services | Yes | Yes |

| | | |
|---|---|---|
| Temporary staffing services | Yes | Yes |
| Information technology services | Yes | Yes |
| Live presentations | Yes | Yes |
| Custom software | Yes | Yes |
| Customization of prewritten software | Yes | Yes |

## Changes to DAS and affiliated group exclusions

ESSB 5814 repealed several key exclusions from the DAS classification, that were mostly restored by ESSB 6346. The following table summarizes changes to DAS exclusions under ESSB 5814 and ESSB 6346.

| DAS exclusion | ESSB 5814 (2025) | ESSB 6346 (2026) |
|---|---|---|
| Services primarily involving human effort | Removed | Restored |
| Live presentations | Removed | Restored |
| Data processing | Removed | Restored |
| Advertising services | Removed | Did not restore |

Under ESSB 5814, an exclusion applied to the newly taxed services when provided between members of an affiliated group. However, effective January 1, 2029, ESSB 6346 narrows this affiliated group exclusion to retail sales of advertising services between affiliated group members only.

***Observation:*** With the repeal not taking effect until January 1, 2029, businesses may need to navigate two different compliance periods. That timing could create added complexity, as companies may need to maintain current taxability rules while getting ready for future updates to billing systems, exemption handling, and service categories mapping.

Finally, with advertising services remaining taxable while several service categories will no longer be taxable, businesses could face added classification complexity. Companies offering integrated marketing, technology, data, or creative services may need to evaluate whether a particular offering is properly characterized as taxable advertising services or as a nontaxable service removed by ESSB 6346.

# Previously published Insights

## Utah enacts targeted advertising tax beginning January 1, 2027

Utah enacted S.B. 287 on March 25, 2026, creating a new annual 4.7% tax that applies to a targeted advertising entity meeting specified revenue thresholds and delivering targeted advertising to Utah audiences. The enacted legislation uses an impressions-based apportionment methodology to determine the tax base. The tax is imposed beginning January 1, 2027.

For more information, see PwC's Insight here.

## Utah clarifies sales tax on streaming, subscriptions, and seller-hosted prewritten software

Utah enacted Senate Bill 162 on March 23, 2026, expanding and clarifying the sales and use tax treatment of digital transactions beginning July 1, 2026. While Utah already taxed digital products transferred electronically and prewritten software regardless of delivery method, the new law expressly applies tax to amounts paid or charged for:

- access to digital audio-visual works, digital audio works, digital books, and gaming services, including the streaming of, or subscription for access to, that content even without a download; and
- the storage, use, or other consumption of prewritten computer software delivered electronically or by load and leave, as well as seller-hosted prewritten computer software.

The legislation also adds language to clarify that transactions already subject to tax under Utah's MultiChannel Video or Audio Service Tax Act are exempt from the sales and use tax, according to the state's longstanding position.

For more information, see PwC's Insight here.

## Chicago's social media amusement tax faces legal challenge

The City of Chicago's recently enacted Social Media Amusement Tax, which became effective on January 1, 2026, is being challenged by a trade association representing members of the technology industry. NetChoice filed suit at the Circuit Court of Cook County on March 13, 2026 requesting that the tax be declared invalid and collection enjoined. The tax, imposed as a per-user fee, applies to certain social media businesses.

For more information, see PwC's Insight here.

# Let's talk

For a deeper discussion of how these issues might affect your business, please contact:

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