



US Indirect Tax Digest

Highlighting indirect tax developments

March 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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Maryland adopts digital advertising tax regulation clarifying prior guidance

The Maryland Comptroller adopted amendments to a regulation on February 20, 2026, effective March 2, 2026, addressing the scope of Maryland's digital advertising gross revenues (DAGR) tax. [[Maryland Register 12/26/25, COMAR 03.12.01.01](#)]

Consistent with earlier guidance, the adopted regulation largely incorporates positions reflected in [Technical Bulletin 59](#) by clarifying that taxable digital advertising services must be both programmatic and visually conveyed. The regulation also provides guidance regarding digital advertising services considered "other comparable advertising services." It also amends the "digital interface" definition to confirm that tax can apply to advertising conveyed both on and off the Internet.

For additional information, see PwC's [Maryland enacts first-in-the-nation digital advertising tax](#).

Taxable digital advertising must be programmatic and visually conveyed

Prior to the amendments, the regulation defined "digital advertising services" broadly to include "advertisement services on a digital interface, including advertisements in the form of banner advertising, search engine advertising, interstitial advertising, and other comparable advertising services."

The adopted amendments revise the "digital advertising services" definition to mean "advertising services on a digital interface" that are both "programmatic" and "visually conveyed." The regulation also expressly excludes advertising services that are not programmatic or not visually conveyed, in addition to the existing exclusion for advertisement services on digital interfaces owned or operated by or on behalf of a broadcast entity or news media entity.

This approach adopts the framework in Technical Bulletin 59, which explains that purely audio advertising and non-programmatic advertising are not subject to tax.

Guidance regarding “other comparable advertising services”

The adopted regulation adds a list of “other comparable advertising services,” including:

- Display advertising;
- Internet programmatic video advertising;
- Multichannel video programming distributor (MVPD) advertising conveyed via cable television, satellite television, or a digital fiber-optic distribution system;
- Advertising on social media;
- Native advertising; and
- Incentivized or rewarded advertising.

Programmatic advertising uses automated delivery and user-targeting data

The amendments define “programmatic” as capable of automating advertising services. Programmatic digital advertising services may be sold in real time through computer- or software-driven workflows or machine learning algorithms that deliver advertisements to users based on advertiser-defined parameters, including precise user targeting data such as user:

- Geographic locations;
- Types of devices;
- Recent online search behaviors;
- Browsing history;

- Shopping history;
- Purchase history; and
- Biographical and other information compiled in databases.

"Visually conveyed" requires a visual element distinct from audio advertising

Technical Bulletin 59 explains that banner advertising, search engine advertising, and interstitial advertising convey messages visually. The Comptroller notes that advertisements that are conveyed in a purely audio format are not subject to the DAGR tax.

Technical Bulletin 59 provides examples of nontaxable advertising that lacks the visual attribute, including digital non-programmatic broadcast television advertising, digital non-programmatic out-of-home advertising, digital and satellite radio advertising, MVPD non-programmatic video advertising, and Internet non-programmatic video or audio advertising.

Refund opportunities may exist for taxpayers that previously remitted tax on non-programmatic or non-visual advertising

The Maryland Register states that if sellers of digital advertising services previously remitted tax on services that were not programmatic or visually conveyed, the taxpayer may file an amended return to request a refund of the DAGR tax.

Technical Bulletin 59 similarly explains that refund claims may be pursued through amended DAGR returns (Form 600), subject to a three-year limitations period from the date the tax was paid. The amended return must include an explanation and documentation demonstrating changes to revenues or the Maryland apportionment factor.

Observation: Companies may want to reassess the scope of Maryland digital advertising taxability, revisit prior filings, and explore refund opportunities. Companies should review advertising revenue streams to determine whether services are both programmatic and visually conveyed, particularly for video, social media, native, and multichannel advertising offerings.

Maryland adopts tech tax regulations clarifying previous guidance

The Maryland Comptroller adopted [amended regulations](#) on February 20, 2026, addressing sales tax on technology services. These regulations became effective March 2, 2026. Consistent with earlier guidance, the adopted regulations provide additional clarification on several items, including:

- multiple points of use (MPU) certificates,
- an expanded lease definition,
- the tax treatment of bundled services,
- repair labor,
- items sold with exempt services, and
- an out-of-state vendor that delivers a taxable service in Maryland.

Much of the adopted regulation appears to reflect positions the Comptroller previously set out in [Technical Bulletin No. 56](#) and [Technical Bulletin No. 54](#). The summary below highlights additional information contained in the regulation that further explains the Comptroller's earlier guidance.

For additional information, see PwC's [Maryland budget includes new 3% services tax, individual income tax increases, and capital gains tax](#) and [Maryland releases emergency rules and guidance for sales tax on technology services](#).

Clarifications to MPU certificate requirements

Prior to issuing an MPU, a buyer must:

- Be registered for sales/use tax,
- Submit a separate request for authorization to issue an MPU for each transaction in which the buyer intends to use an MPU,
- Be authorized by the Comptroller to issue an MPU, and
- Provide the MPU to the vendor at or before the time of purchase.

An MPU certificate may be used when a data and information technology service, software publishing service, digital code, or digital product will be concurrently available for use both inside and outside Maryland or resold in its original form to at least one related entity for use both inside and outside of the

State. There is an opportunity for the buyer to request a refund if it fails to meet these requirements at the time of sale.

A completed, authorized MPU certificate relieves the vendor of the obligation to collect and remit sales and use tax, shifting the responsibility to the buyer or the affiliated group member receiving the resold items to remit use tax on the apportioned Maryland use. The updated regulation provides that if the vendor does not possess an MPU certificate and the Comptroller issues its intent to assess, the vendor has 60 days from the mailing of the notice to obtain the certificate.

Further, adopted amendments to an existing regulation state that a buyer using an MPU certificate is required to retain records as they exist at the time of sale supporting (1) the apportionment reflecting the primary use location in the state, and (2) the method of apportionment. The method of apportionment must be consistent and uniform. Additionally, the MPU must contain a list of information to be considered valid.

Leases of data or information technology services and software publishing

Under Maryland's existing framework, an amended regulation expands the "lease" definition to include a license for use of a data or information technology service or a software publishing service. The regulation states that tax applies to the entire lease payment when used within Maryland at any time during that lease payment period regardless of where the lease was transacted or possession of the property, digital code, or digital product was taken, or where the taxable service was delivered. The regulation clarifies that when a lease payment bundles a taxable and a nontaxable service without separately stating the nontaxable charge, the full payment is taxable if the taxable service is the dominant purpose of the transaction and the nontaxable service is a mandatory, incidental vendor charge. Conversely, tax does not apply if the nontaxable service is the dominant purpose, and the taxable service is incidental.

Repairs of technology services are taxable

Existing regulations state that repair charges to alter tangible personal property, a digital code, or a digital product for restoration to the original condition are not taxable. The amended regulation provides that these repairs are taxable if the labor constitutes a taxable service, including a data or information technology service, or a system software or application software publishing service.

Current exemptions do not apply to property or services sold concurrently

Maryland statute provides exemptions for sales of cloud computing to a qualified cybersecurity business, sales of data or information technology service or software publishing service to a qualified company located in an emerging technology development area made in connection with the work of the company, or sale of a data or information technology service or software publishing service by a qualified company located in an emerging technology development area. The adopted regulation clarifies that the exemptions above do not apply to any tangible personal property, digital product, digital code, or taxable service sold with the exempt service.

Services delivered in-state are taxable

The statute provides a presumption that taxable services, including technology services, are sourced to the customer tax address. Adopted amendments to an interstate commerce regulation verify this sourcing rule. In addition, the regulation clarifies that sales and use tax applies when an out-of-state vendor meeting economic nexus thresholds delivers a taxable service within Maryland.

Observation: The newly amended regulation provides specific details, particularly regarding taxable services. Maryland's current MPU process outlined in this regulation, requiring buyers to request Comptroller authorization for each transaction in which a certificate is used, may be onerous but could create audit exposure if documentation is incomplete. Proposed [Senate Bill 644](#) and [House Bill 933](#), currently in Committee, would reduce some of that burden by removing the need for prior Comptroller approval before presenting a fully completed MPU certificate. The proposals also would allow the certificate to remain in effect for future sales (until revoked). The bill, if enacted, would be effective July 1, 2026 and apply retroactively to July 1, 2025.

Washington announces temporary penalty relief program under ESSB 5814

The Washington Department of Revenue announced in March 2026 that it is offering a temporary penalty relief program for businesses that did not collect or pay retail sales or use tax on services newly taxed under ESSB 5814. The program does not eliminate the obligation to pay the underlying tax and accrued interest.

Taxable services under ESSB 5814

Effective October 1, 2025, ESSB 5814 significantly expanded the scope of Washington's retailing business and occupation (B&O) tax and retail sales tax to include a broad range of services previously exempt, such as advertising services, custom software, and data processing. For a detailed list of newly taxable services, see PwC's [Washington State enacts significant tax legislation](#).

Penalty relief dates and application deadlines

The program waives certain penalties related to uncollected retail sales tax and unpaid use tax attributable to ESSB 5814 changes for reporting periods from October 1, 2025, through December 31, 2026.

Businesses need to apply online through the Department's Voluntary Disclosure Application by September 30, 2027. Unregistered businesses should review the voluntary disclosure program to confirm qualification requirements.

The application requires selecting "yes" for ESSB 5814 penalty relief and providing a UBI/Account ID if available. If approved, the Department will issue a penalty relief agreement, which needs to be signed and returned within 30 days.

Subsequently, the Department will request any needed information, prepare a tax assessment, and send a draft for review. Once finalized, the invoice will be posted to My DOR, and full payment is required by the due date to avoid further penalties. If not approved, the Department stated it will explain the decision and provide further instructions.

Preexisting contracts

ESSB 5814 includes transitional provisions allowing businesses to not pay retail sales tax on binding contracts for newly taxable services that were unpaid and unaltered before October 1, 2025 through March 31, 2026. For those businesses, eligibility for the penalty relief program begins when the temporary sales tax relief under their preexisting contract ends, or April 1, 2026, whichever comes first. Relief ends on December 31, 2026.

Observation: Businesses selling or purchasing the newly taxable services should review invoices and use tax accruals for periods beginning October 1, 2025. If there is a compliance gap, companies should consider applying for the penalty relief program before September 30, 2027. The department issued detailed guidance for contracts existing prior to October 1, 2025. Businesses with preexisting contracts that had temporary sales tax relief should also determine when their eligibility for penalty relief begins and ends.

ESSB 5814 Penalty Relief Program, Washington Department of Revenue (March 2026)

Note: ESSB 6346, enacted on March 30, 2026, makes substantial changes to repeal the tax on many of these services (except for advertising services). The repeal becomes effective January 1, 2029.

Let's talk

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

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