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## Highlighting indirect tax developments

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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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### Chicago increases tax rate imposed on streaming services, personal property leases, and other items

The Chicago City Council approved a fiscal 2025 budget revenue ordinance on December 16, 2024, that increases (1) the amusement tax rate applied to paid television and amusements delivered electronically, (2) the Chicago Personal Property Lease Transaction Tax rate, and (3) the checkout bag tax rate, effective January 1, 2025.

The ground transportation tax imposed on network transportation service rides is reduced but the tax applies to additional days of the week, effective January 6, 2025.

#### Tax rate increase of 1.25% on paid television and electronically delivered amusements

The revenue ordinance increases the amusement tax rate from 9% to 10.25% of the charges paid for the privilege to view or to participate in such amusement for paid television and amusements that are delivered electronically, such as video streaming, audio streaming, and on-line games.

**Observation:** Companies purchasing streaming and paid television services in Chicago may need to evaluate vendor invoices to ensure compliance with the new amusement tax rate.

## Chicago Personal Property Lease Transaction Tax rate increased by 2%

The revenue ordinance increases the Chicago Personal Property Lease Transaction Tax rate from 9% to 11% of the lease or rental price.

**Observation:** Leasing would be more costly with the approved revenue ordinance, considering the increased tax rate. Businesses should evaluate impacts to forecasting and resource allocation for tangible assets, software licenses, and cloud computing. Companies also should consider whether they are taking advantage of software apportionment opportunities.

## Checkout bag tax net remittance increased by \$0.04 per bag

The revenue ordinance includes the following changes for Chicago's checkout bag tax:

- Increases the tax rate from \$0.07 to \$0.10 per checkout bag
- Reduces the amount a store or a wholesaler that remits or pays the tax can retain per checkout bag sold or used from \$0.02 to \$0.01 (the net remittance or payment is increased from \$0.05 to \$0.09 per checkout bag)
- Requires a wholesaler receiving a remittance or payment from a store to remit \$0.09 per checkout bag sold or used
- For future tax rate increases, the ordinance reduces the eligible commission amount that can be retained from \$0.02 to \$0.01 per checkout bag for every person required to file a tax return that files a complete tax return by its due date and makes timely payment of the amount computed
- Reduces the allowed credit amount from \$0.02 to \$0.01 per checkout bag purchased for a store that remits tax to a wholesaler or a wholesaler that remits tax to the Department (increasing required remittance to the Department from \$0.05 to \$0.09 per checkout bag).

**Observation:** Retailers and wholesalers operating within Chicago will need to update point-of-sale systems to apply the new rate of tax.

## Tax imposed on network transportation service rides reduced but extended to weekends

The revenue ordinance reduces the ground transportation tax imposed from \$1.75 to \$1.50 per vehicle, per ride for transportation network service by transportation network drivers and extends the tax to every ride that includes a pickup or drop-off, or both, between 6:00 a.m. and 10:00 p.m. on weekends in the Downtown Zone (previously applied to weekdays only).

[Revenue Ordinance, Chicago City Council \(approved 12/16/24\)](#)

## Additional states propose digital advertising tax

Massachusetts, Montana, and Rhode Island have proposed modified versions of Maryland's digital advertising tax. Massachusetts again proposed legislation in draft form on January 14, [H.D. 1130](#) and [S.D. 844](#), to impose "an excise tax on the sale of digital

advertising services within the commonwealth." The tax would be levied on companies with over \$25 million of revenue from digital advertising services in Massachusetts, at a rate of 5%. Similar proposals have failed to advance in prior sessions.

A similar draft bill has been filed on January 8 in Montana, [D. 1649](#). This bill would impose the tax at a rate of 10% of Montana digital advertising revenue and would be triggered by having worldwide annual gross revenue from digital advertising services of \$25 million or more.

Rhode Island proposed a similar tax as part of a [budget proposal](#) on January 16. The tax would be imposed at a rate of 10% and would apply to business revenues derived in Rhode Island from digital advertising for companies with at least \$1 billion in global revenues.

**Observation:** Similar to Maryland's digital advertising tax, these proposals may face legal challenges if enacted.

## Resale exemption for cloud computing services denied by Texas comptroller

The Texas Comptroller of Public Accounts issued a private letter ruling on November 24, 2024, denying a taxpayer's request to exempt cloud computing services from Texas sales tax under the resale exemption.

The taxpayer provides web-based transportation logistics solutions, including shipment tracking, freight payments, and supply chain management. These services are delivered via an online system hosted on cloud infrastructure, with the taxpayer collecting and remitting sales tax on customer fees as data processing services. To provide its services, the taxpayer purchases cloud services for the hosting and storage of the online system and customer databases from an authorized reseller of cloud services.

The taxpayer inquired whether its purchases of cloud computing services qualified for the resale exemption.

Texas imposes sales tax on data processing services, including cloud services. Texas allows a resale exemption if items or services are purchased specifically for resale in the normal course of business; however, the exemption does not extend to services purchased for performing a contract or for internal business use.

The taxpayer argued that its cloud service purchases were for resale, as charges were allocated based on customer usage. The state contended that the taxpayer primarily used the cloud services internally to operate its online system.

The Comptroller ruled that the taxpayer's use of cloud services constituted an internal use, not for resale, since no documentation was provided to establish that customer-specific usage generated cloud service charges.

**Observation:** Companies should evaluate cloud service contracts and include detailed agreements specifying resale usage for any exemption claims.

[Private Letter Ruling No. 20210226061035, Texas Comptroller of Public Accounts \(11/24/24\)](#)

## Washington guidance clarifies surcharges and tariffs are subject to tax

The Washington Department of Revenue provided guidance on December 23, 2024, clarifying that surcharges, including tariffs, fuel costs, or credit card processing fees generally are subject to tax under applicable tax classifications.

The Department stated that these surcharges are included in the selling price and cannot be deducted even if separately stated on invoices. When the sale is considered a retail sale, the business also must collect retail sales tax on the total selling price, including the surcharge or tariff fee. Similarly, surcharges for services are subject to tax under the service and other activities B&O tax classification, while surcharges for utilities fall under public utility tax.

**Observation:** Companies should evaluate invoicing and point-of-sale systems to properly include surcharges in taxable amounts.

[Washington Department of Revenue, Surcharges Including Tariffs \(12/23/24\)](#)

## Let's talk

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

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