



TaxNewsFlash

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KPMG reports: Minnesota (retail delivery fee); Missouri (resale tax exemption); multistate (taxation of digital products and services and software)

KPMG This Week in State Tax—produced weekly by the KPMG State and Local Tax practice—focuses on recent state and local tax developments.

- **Minnesota:** House File 580 would require a retailer who makes a retail delivery to add to the price a \$ 0.40 retail delivery fee effective January 1, 2024. The fee would increase to \$0.45 beginning July 1, 2025, and to \$0.50 on July 1, 2027. This retail delivery fee would be similar to the fee that has been imposed in Colorado since last July. The fee would apply to deliveries of taxable items and clothing, notwithstanding the fact that Minnesota generally exempts clothing from sales and use tax.
- **Missouri:** The Missouri Administrative Hearing Commission recently concluded that a taxpayer was not prohibited from claiming a resale exemption for purchases of information technology (IT) equipment because the equipment was ultimately purchased for resale. The tax authority had asserted that the taxpayer, who modified the equipment at its Missouri warehouse before it was sold to affiliates, exercised more control over the use of the purchased IT equipment than was permitted to claim a resale exemption. However, the Commission disagreed noting that the taxpayer ultimately resold the property and tax was paid on the selling price.
- **Multistate:** Certain proposed bills would clarify or revise how states tax digital products and services, and software.

- Arizona House Bill 2585 would adopt a new transaction privilege tax “digital goods” classification, which is comprised of the business of selling, leasing or licensing the use of prewritten computer software or providing specified digital goods. The tax imposed under the digital goods classification would not apply to sales of certain services, including digital services, which would be defined to include cloud-based or remotely accessed software.
- Georgia House Bill 170 would impose sales and use tax on digital products, which would include digital services. However, the bill would adopt two new sales and use tax exemptions. The first would exempt from sales and use tax sales of digital services to end users on a subscription or membership basis providing the end user with a limited right to access or utilize such digital services for a period of at least 30 days and not more than one year. The second new exemption would apply to sales of prewritten computer software or digital products sold to commercial enterprises and used primarily for commercial purposes.
- Minnesota House File 468 would revise the definition of a sale and purchase to include the charge made to a purchaser for the right to access and use prewritten computer software where possession of the software is maintained by the seller or a third party.
- Mississippi House Bill 968 would impose tax specifically on “computer software services” and “computer services.” “Computer software service” would be defined to include computer software accessed remotely via the internet regardless of whether the software resides on a server located inside or outside of Mississippi.

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