Sales Taxation of Digital Products – Status Report

JULY 28, 2026

STATUS REPORT – WHITE PAPER

WORK ON THE DRAFT WHITE PAPER

- Drawing on the information from the work group process we are drafting sections of the white paper and publishing those.
- Publishing those drafts on the project page along with links to other information from the work group, study groups, and staff research.

Sales Tax on Digital Products

THE REGULAR WORK GROUP MEETINGS ARE SUSPENDED WHILE DRAFTS OF THE WHITE PAPER SECTIONS ARE PREPARED AND CIRCULATED. (See those drafts on this page, below.)

PROJECT DESCRIPTION:

At its July 28, 2021 meeting, the Uniformity Committee considered a recommendation from the Standing Subcommittee to begin drafting the outline of a white paper on state sales taxation of digital products. The committee agreed that MTC staff would begin the process by drafting a detailed outline of the issues to be included in that white paper after conducting necessary research and stakeholder interviews. At the August 2, 2022 meeting of the Uniformity Committee, the committee reviewed the proposed draft outline and agreed that a project work group should be formed to provide ongoing input into and review of the white paper as it developed.

IMPORTANT NOTE:

The information publised on this project by the MTC , including summaries of research into the approaches used by states in taxing digital products, is not intended as legal or tax advice on how current state tax laws would apply to particular products or transactions and cannot be used for that purpose. This information is meant solely to guide the discussions of the work group and others on the approaches states may use in taxing digital products. Those seeking information on the application of state tax law should contact the taxing states or licensed practitioners.

For information about this or any other MTC uniformity project, contact MTC Uniformity Counsel Helen Hecht – hhecht@mtc.gov.

Click Here for Digital White Paper Outline and Research

The link above takes you to a digital outline with pages for the different topics covered in this project.
Each page has information used in this project including research, written comments, and any study group materials.

For notes and materials from prior work group, scroll down to the drop-down heading on this page below.

DRAFTS OF WHITE PAPER SECTIONS – TOPICS/ISSUES:

NOTE: Drafts posted below are for discussion and comment. They may be revised prior to final submission to the MTC Uniformity Committee.

Introduction and Purpose

Draft of White Paper Introduction – Purpose Section 7-15-26 (Word)(PDF)
Pupose Page of the Digital Outline, See HERE
Original Project Outline – Approved by the Uniformity Committee (PDF)

Imposition (Definitions)

Draft of Imposition (Definitions) Section – Coming Soon
Report from the Definitions Study Group – Made to the Work Group (PDF)
Evaluation of other State Approaces – See HERE – under "Evaluation of Other State Approaches" Drop Down
Imposition (Definitions) Page of the Digital Outline, See HERE

Issues of Sale

Draft of Issues of Sale Section – Coming Soon
Issues of Sale Page of the Digital Outline, See HERE

Exemptions and Exclusions

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Exemptions and Exclusions

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Exemptions and Exclusions Page of the Digital Outline, See HERE

Mixed and Bundled Transactions

Draft of Mixed and Bundled Transactions Section – 4-28-26(Word)(PDF)
Mixed and Bundled Transactions Page of the Digital Outline, See HERE

Sourcing

Draft of Sourcing Section – Coming Soon
Sourcing Page of the Digital Outline, See HERE

Alternative Taxes

Draft of Alternative Taxes Section
Alternative Taxes Section of the Digital Outline, See HERE

Federal Law (Internet Tax Freedom Act and Other)

Draft of Federal Law (ITFA) Section – Coming Soon
Federal Law (ITFA) Section of the Digital Outline, See HERE

Other Related Issues

TBD

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Digital White Paper Issue Outline

NOTE: Information in this digital outline is in draft form and additional information will be added over time. There are no final recommendations at this time.

- Purpose
- Imposition (Definitions)
- Issues of sale
- Exemptions and Exclusions
- Mixed and Bundled Products
- Sourcing
- Alternative Taxes
- Federal Law
- Other related issues
- Appendix

Organization of the Digital Outline

The digital outline includes general topic areas or categories of issues and information as summarized below. You can access current information and resources on these topics using the buttons on the left.

General Topic Areas:

NOTE: Because some issues are closely related to each other, information may be included in more than one topic section of the digital outline. Also, included on each topic page are links to a summary of the history of state sales taxes and to other critical information.

- **Purpose** – Includes information on the purpose of the white paper and essential considerations impacting taxation of digital products including critical federal laws, state legislative studies, and stakeholder general issues and concerns.
- **Imposition** – Includes information on how states approach taxation of digital products currently–using a broad, medium, or narrow approach, and information on definitions.
- **Issues of Sale** – Includes information on the different types of transactions by which digital products may be provided to customers (i.e., sale, lease, license, subscription or limited access, etc.)
- **Exemptions and Exclusions** – Includes policy and administration related issues on exemptions and exclusions that might be applied to digital products.
- **Mixed and Bundled Products** – Includes information on the Streamlined bundling rules and from stakeholder interviews on this subject as well as the results of a bundling exercise study group.
- **Sourcing** – Includes information from the Streamlined sourcing rules as well as information on other sourcing issues including multiple points of use.
- **Alternative Taxes** – Includes information on taxes other than sales and use taxes that may be imposed on digital products.
- **Federal Law** – Includes information on relevant federal constitutional and statutory law.
- **Other Related Issues** – Includes direct pay rules and general enforcement issues.
- **Appendix** – Contains links to various resources for all topic areas.

Background on the Project

At the April 28, 2021 MTC Uniformity Committee meeting, the Washington Department of Revenue gave a presentation on their state's experience with including digital products in their sales tax base as well as the alternatives they considered. They proposed that the Committee take up a project to help states develop a simpler and more adaptable approach.

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ALTERNATIVE TAXES

LINEUP

- Jonathan will introduce the topic.
- Tim will discuss Washington’s imposition of tax on advertising.
- Brian will provide detail on various laws recently enacted by Chicago and Illinois.
- Encore/questions/discussion.

MAJOR GENRES

- Advertising tax – measured by advertising revenues
- Data collection tax – measured by number of users who have their data collected (subgenre: measured by volume of data)
- Pure social media tax – imposed on social media companies and measured by gross revenue

NEW RELEASES

- Digital Asset tax – a tax on the activity of dealing with crypo assets
- Prediction markets tax – similar to a wagering tax, per exchange wager

GENERAL GENRES

- Advertising tax – measured by advertising revenues
- Data collection tax – measured by number of users who have their data collected
- Pure social media tax – imposed on social media companies and measured by gross revenue

LATEST STRAINS

- Digital Asset tax – a tax on the activity of dealing with crypo assets
- Prediction markets tax – similar to a wagering tax, per exchange wager

Important: there is significant substantive variation within genre; these are general categories!

BEHIND THE MUSIC

- Advertising – “programmatic” “targeted” “digital”
- Data collection – by a “commercial data collector” by a “social media platform business”
- Pure social media tax – a tax imposed on social media companies and measured by their gross revenues

WASHINGTON SALES TAX - ADVERTISING

- Historically, Washington has not imposed retail sales tax on advertising services.
- Effective Oct. 1, 2025, sales of advertising became subject to sales tax.
- "Advertising services" means all digital and nondigital services related to the creation, preparation, production, or dissemination of advertisements including, but not limited to:
  - (A) Layout, art direction, graphic design, mechanical preparation, production supervision, placement, referrals, acquisition of advertising space, and rendering advice concerning the best methods of advertising products or services; and
  - (B) 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 for purposes of determining the effectiveness of an advertising campaign.

WASHINGTON SALES TAX - ADVERTISING

- Advertising services" do not include:
- (A) Web hosting services and domain name registration;
- (B) Services rendered in respect to the following:
  - (I) "Newspapers" as defined in RCW 82.04.214;
  - (II) Printing or publishing under RCW 82.04.280; and
  - (III) "Radio and television broadcasting" within this state as defined in RCW 82.04.281; and
- (C) Services rendered in respect to out-of-home advertising, including: Billboard advertising; street furniture advertising; transit advertising; place-based advertising, such as in-store display advertising or point-of-sale advertising; dynamic or static signage at live events; naming rights; and fixed signage advertising. Out-of-home advertising does not include direct mail;

CHICAGO AND ILLINOIS

- Chicago Social Media Amusement Tax 

- Illinois Targeted Advertising Services Tax
- Social Media Platform Fee
- Extension of Sports Wagering Act to cover prediction markets 

- Illinois Digital Asset Tax Act (crypto tax) 

CHICAGO SOCIAL MEDIA AMUSEMENT TAX

- Imposes tax at the rate of $0.50/per month per Chicago consumer on “the activity of social media amusement.”
- Excludes the first 100K Chicago consumers.
- The tax is imposed on “social media businesses” that collect consumer data on more than 100,000 Chicago consumers.

WHAT IS A CHICAGO CONSUMER UNDER THE TAX?

Rebuttable presumption: A Chicago consumer is a consumer whose information on record with, *or available to*, a social media business indicates:

(1) a Chicago home address,

(2) a Chicago mailing address, or

(3) an internet protocol address or other consumer data on primary usage location connected with a Chicago location.

For administrative ease, a social media business may create reasonable categorization standards to use in analyzing consumer data to determine if a consumer is a Chicago consumer.

WHAT IS SOCIAL MEDIA UNDER THE TAX?

"Social media" means websites, applications, products, and internet platforms that allows consumers to view, share, and otherwise engage with images, videos, and audio presented in types and formats including, but not limited to, performances, promotions, memes, augmented reality, artificial intelligence, and live streams. "Social media" does not include any bona fide news website, application, or platform.

"Amusement" means engagement with media content delivered through the use of social media for the substantial purpose of entertainment and enjoyment.

"Social media business" means a for-profit entity that: (a) provides individuals with access to social media and (b) collects, maintains, uses, processes, sells, or shares consumer data, other than consumer contact information, in support of the entity's business activities.

4-156-1040 Rules of interpretation.

(a) The definition of "social media business" in this article shall not be construed to include:

(1) an Internet search provider;

(2) an Internet service provider;

(3) an email service;

(4) a streaming service, online video game, or website where the content is not user generated but includes interactive functions that enable chat, comments, reviews, or other interactive functionality that is incidental to, not directly related to or dependent upon providing the content;

(5) a communication service, including text, audio, or video communication technology, provided by a business to the business's employees and clients for use in the course of business activities and not for public distribution, except that a social media business's media access includes a communication service provided to consumers by a social media business;

(6) an advertising network with the sole function of delivering commercial content;

(7) a telecommunications carrier, as defined in United States Code, title 47, section 153;

(8) a broadband service, as defined in 220 ILCS 5/21-201(c);

(9) single-purpose community groups for education or public safety;

(10) teleconferencing or video-conferencing services that allow reception and transmission of audio and video signals for real-time communication, except that a social media business's media access includes teleconferencing or video-conferencing services provided to consumers by a social media business;

(11) cloud computing services or other non-possessory computer leasing services, which may include cloud storage and shared document collaboration; or

(12) providing or obtaining technical support for a platform, product, or service.

CHICAGO SOCIAL MEDIA AMUSEMENT TAX

The purpose of the tax is:

“revenue generation for the City of Chicago by taxing the activity of social media amusement based on a social media business’s monetization of consumer engagement and consumer data collected about Chicago users in conjunction with their social media use.”

Proceeds to be used to provide mental health services:

“The Budget Director and the Comptroller shall create and implement a special revenue fund for supports to the City’s mental and behavioral health operations and investments (the “Protecting Care Fund”) and other accounting measures to track the collection and spending of all proceeds, including penalties, resulting from the imposition of the tax under this chapter.”

CHICAGO SOCIAL MEDIA AMUSEMENT TAX

NetChoice has challenged the tax in Cook County Circuit Court under:

- Internet Tax Freedom Act
- Illinois Constitution (limitation on home rule tax authority)
- First Amendment
- Commerce Clause

ILLINOIS SOCIAL MEDIA PLATFORM FEE

Imposes a graduated system of fees on social media platforms that collect data from Illinois users:

10 cents per active user per month if the company has 100,000 to 500,000 Illinois users;

$40,000 plus 25 cents per user per month if the company has 500,001 to 1 million Illinois users; and

$165,000 plus 50 cents per user per month if the company has more than 1 million Illinois users.

No definition of Illinois user in the statute.

WHAT IS A SOCIAL MEDIA PLATFORM?

"Social media platform" means a website or internet medium that:

(1) permits a person to become a registered user, establish an account, or create a profile for the purpose of allowing users to create, share, and view user-generated content through that account or profile;

(2) enables one or more users to generate content that can be viewed by other users of the medium; and

(3) primarily serves as a medium for users to interact with content generated by other users of the medium.

SOCIAL MEDIA PLATFORM FEE

- Administered by the Secretary of State (not the Department of Revenue)
- Prohibits a platform from varying the cost of access, features, services, or in-app purchases for any user based on the geographic origin of the user for purposes of recouping the fee.
- Fees to be deposited in the common school fund.

ILLINOIS TARGETED ADVERTISING SERVICES TAX

- Imposes tax upon providers of “targeted advertising services” provided to Illinois user-consumers at the rate 10% of Illinois gross receipts.
- Excludes providers with less than $1 million of annual gross receipts from targeted advertising services in Illinois.
- Rebuttable presumption regarding Illinois consumers similar to the Chicago rebuttable presumption.

ILLINOIS TARGETED ADVERTISING SERVICES TAX

Differs from the Maryland Digital Advertising Tax which is currently being litigated:

The Illinois is a tax on targeted advertising services, rather than on digital advertising services.

"Targeted advertising services" means any programmatic written, oral, or graphic statement or representation conveyed through a digital interface or any other method of delivery, including, but not limited to, banner advertising, search engine advertising, interstitial advertising, and other comparable advertising services that use personal information about the people to whom the ads are being served. [Excludes news media sites.]

ILLINOIS TARGETED ADVERTISING SERVICES TAX

Findings and intent.

The General Assembly finds and declares the following: Many goods and services that traditionally have been subject to Illinois State and local use and occupation taxes have avoided taxation in the digital era. Many digital transactions are harder to bring into the sales tax base because, instead of paying a monetary fee, customers often barter their personal information for access to digital platforms. This personal information, in turn, is sold for use in targeted advertisements on digital platforms. . . .

TAX ON (CERTAIN) PREDICTION MARKETS

- Added to the Sports Wagering Act.
- 1.75% tax on each exchange wager up to 5 million wagers during a fiscal year; 3.5% tax on each additional wager.
- "Exchange wager" includes an agreement, contract, transaction, or swap that is offered, traded, or executed on a prediction market or exchange tied to a sporting contest or sporting event.

TAX ON (CERTAIN) PREDICTION MARKETS

Kalshi sued Illinois in federal district court challenging non-tax provisions of the bill that seek to regulate prediction markets.

The state agreed to halt enforcement of the tax until the lawsuit is resolved.

Kalshi claims that the Commodity Futures Trading Commission has exclusive jurisdiction over prediction markets under the federal Commodity Exchange Act

ILLINOIS DIGITAL ASSET TAX ACT

- Imposes a transaction tax upon the “privilege of receiving any digital asset business activity by a customer in [Illinois].”
- “Digital asset business activity” means exchanging, transferring, or storing a digital asset.
- Rate: 0.2% of the value of the digital asset to which the digital asset business activity relates.
- Industry claims that digital assets may include not only cryptocurrencies but also “tokenized” versions of stocks, bonds, commodities, and bank deposits.
- Requires digital asset brokers, such as cryptocurrency exchanges and other parties that facilitate digital asset transactions on behalf of customers, to collect the tax and remit it to the state.

ILLINOIS DIGITAL ASSET TAX ACT

The Chamber of Digital Commerce has challenged the tax in Sangamon County Circuit Court under:

- Uniformity Clause of the Illinois Constitution
- Due process clause of the Illinois Constitution and the U.S. Constitution
- Illinois Proportionment Penalties Clause of the Illinois Constitution
- Commerce Clause
- Internet Tax Freedom Act

REFERENCE SLIDE

- California – A.B. 796 (2026); proposed
- Illinois – S.B. 3019 (2026); enacted
- Maryland – H.B. 468 (2026); proposed
- Massachusetts – S.B. 3208; S.B. 3089 (2026); H.B. 3126; H.B. 3224; H.B. 3263; H.B. 3118 (2025); proposed
- Michigan – Governor's FY2027 budget; H.B. 4142 (2025); proposed
- Minnesota – S.B. 5052; H.B. 5055 (2026); proposed
- Nebraska – L.B. 2025 (2026); proposed
- New Jersey – S. 4908 (2025); proposed
- New York – A.B. 1434 (2025); proposed
- North Carolina – S.B. 257 (2026); enacted
- Pennsylvania – H.B. 1678 (2026); proposed
- Rhode Island – S.B. 2028 (2026); proposed
- Tennessee – S.B. 2512 (2026); proposed
- Utah – S.B. 287 (2026); enacted
- Washington – S.B. 5814 (2025) (sales tax); enacted

QUESTIONS OR FEEDBACK