



Insights: Publications

5 Key Takeaways | State and Local Tax Judicial and Legislative Trends: 2025 Year in Review

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As we near the end of year, Kilpatrick's **Samantha Breslow** and **Kylan Memminger** recently presented on “**State and Local Tax Judicial and Legislative Trends: 2025 Year in Review.**”

Key takeaways from the presentation include:

1. Washington B&O Tax Applied to Drop Shipments

In July, the Washington Appellate Court upheld Washington's regulations that source drop shipments to the address of the retailer's customer, not the retailer's address, even though the retailer's customers do not pay for the products. (*Synnex Corp. v. State of Wash.*) This decision has widespread implications for not just drop shippers but potentially for intercompany transactions.

2. Taxation of Digital Advertising in Washington

Effective October 1, 2025, Washington has expanded its sales tax to cover more digital services, including electronic advertising and IT services. The new law is currently under challenge as violating the Internet Tax Freedom Act (“ITFA”) because Washington does not tax non-internet advertising, like billboards or radio broadcasting. In the meantime, it is difficult to implement with confusing sourcing rules that differentiate pre-dissemination versus dissemination advertising services.

3. Additional State Tax Digital Goods and Services

Additional states adopted legislation to broaden their sales tax base to tax digital goods and services. This year, Louisiana began taxing digital products, including e-books, streaming services, and applications effective January 1, 2025. Maryland began taxing data services, IT consulting, system software publishing services, and application software publishing effective July 1, 2025. And beginning January 1, 2026, Maine will begin taxing streaming platforms, music/podcast subscriptions, and subscription-based digital services. Texas also expanded their definition of “data processing” to include broader activities like creating websites, internet hosting, data migration, and producing business accounting data.

4. Notable Sales and Use Tax Judicial Decisions

Several cases highlight state courts' Department-friendly interpretations of taxable activities and definitions, including:

- Arizona's denial of a use tax refund for a laundry/rental business not qualifying as “processing” (*9W Halo OPCO LLC v. AZ Dept. of Rev.*).

- California's broad application of use tax to repair parts consumed in-state, even if serviced products are shipped out-of-state (*Olympus Am. Inc. v. Cal. Dep't of Tax & Fee Admin.*).
- Minnesota excluding certain rebates from wholesale drug distributor tax "gross revenues" (*Dakota Drug Inc. v. MN Comm. Of Rev.*).
- Colorado's treatment of streaming services as tangible personal property for sales tax purposes. (*Netflix Inc. v. Colo. Dep't of Revenue*)

5. Corporate Income Tax Sourcing and Apportionment Reforms

Not surprisingly, states continue to transition to market-based sourcing and single sales factor apportionment. Specifically, Massachusetts and Montana shifted from 3-factor apportionment to a single sales factor apportionment methodology beginning with tax years January 1, 2025. Additionally, for tax years ending on or after December 31, 2025, Illinois is moving from Joyce to Finnigan, meaning that the sales factor for a combined group will now include sales sourced to Illinois, regardless of whether every member of the group has nexus in the state.

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