State Tax Matters

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Alert
Virginia enacts new Data Center Electricity Consumption Tax

Effective July 1, 2026, Virginia enacted a new "Data Center Electricity Consumption Tax" as part of the State's fiscal year 2027-2028 biennial budget bill, *House Bill 30* ("H.B. 30"). The Tax is effective for two years, beginning on and after July 1, 2026, through June 30, 2028.

This Indirect Tax Alert summarizes the statutory provisions of the Data Center Electricity Consumption Tax, including important definitions, collection and remittance mechanics, the revenue cap and refund framework, and related administration, penalty, and rulemaking provisions.

URL: *https://www.deloitte.com/content/dam/assets-zone3/us/en/docs/services/tax/2026/virginia-enacts-new-data-center-electricity-consumption-tax.pdf*
[Issued July 17, 2026]

Administrative
Indiana – Reminder: Ongoing Amnesty Program Offering Potential Waiver of Interest and Penalties Ends September 9

News Release: Tax Amnesty 2026 Window Opens, Ind. Dept. of Rev. (7/15/26). An Indiana Department of Revenue (Department) news release reminds that Indiana's tax amnesty program began on July 15, 2026 and continues through September 9, 2026, and that eligible participants may sign up and either pay their resulting balance in full or set up an amnesty payment plan [see *H.B. 1001 (2025)*, and *State Tax Matters, Issue 2025-18*; and *S.B. 243 (2026)*, and *State Tax Matters, Issue 2026-10*, for more details on the state tax legislation authorizing the amnesty program]. According to the news release, the Department is partnering with the United Collection Bureau for this "limited-time opportunity for taxpayers to pay past due, eligible taxes and receive a waiver on related penalties, interest, and collection fees." Additionally, according to the news release, eligible tax amnesty liabilities include liabilities for all listed tax types managed by the Department or Indiana Motor Carrier Services for tax periods ending prior to January 1, 2024. The news release also explains that program participation requires agreeing to the applicable amnesty terms and either paying the base tax in full or setting up a payment plan before September 9, 2026, where any amnesty payment plans must be completed according to their terms before June 7, 2027. Taxpayers that are unsure whether they have amnesty-eligible liabilities may use the Department's tool on "INTIME" to help verify eligibility [see *Department's tax amnesty program webpage* and *State Tax Matters, Issue 2026-14*, for details on this Department-provided "lookup tool"]. Please contact us with any questions.

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Income/Franchise
Idaho – Tax Commission Discusses New Law on State Treatment of Federal RARs & Partnership Audit Regime

Press Release: New law changes ABE election timing, Idaho income tax adjustments after IRS audit, Idaho State Tax Comm. (7/15/26). An Idaho State Tax Commission (Commission) press release discusses implementation of legislation enacted earlier this year that took effect on July 1, 2026, and addresses how and when some pass-through entities must report federal tax adjustments to the Commission and reflects changes in the federal partnership audit and adjustment process under the federal 2015 Bipartisan Budget Act [see *H.B. 733*, *signed by gov. 3/20/26,* and *State Tax Matters, Issue 2026-12*, for more details on the recently enacted law]. With respect to Idaho's "affected business entity" (ABE) election, the release explains that a business can make the ABE election on any original tax return, regardless of when it files the return (previously, "Idaho only allowed the election on a timely filed return"). However, "if a business wants to change its election after filing," it must file an amended return with the election change *before* the due date of the original tax return.

Regarding Internal Revenue Service (IRS) audit adjustments and timeframes, the release states that if a federal audit modifies a taxpayer's tax liability, the taxpayer generally must file an amended Idaho return showing the IRS adjustments within 180 days of the final federal determination, or else "the taxpayer will owe a negligence penalty." Alternatively, the taxpayer may provide the Commission with "a copy of the IRS adjustment forms" within 180 days (previously, 120 days), and then "the agency will make the changes." Regarding IRS partnership audits, the release provides that partnerships that pay the tax for a federal audit at the entity level may likewise pay any resulting state tax due at the partnership level. The release also explains that taxpayers who have been audited by the IRS but have not yet filed an amended Idaho return may make an estimated audit payment to the State to "stop interest from accruing on any amount due." Please contact us with any questions.

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Sales/Use/Indirect
Illinois – Trade Association Challenges Validity of Recently Enacted Digital Asset Tax

Case No. _____, Ill. Cir. Ct. *(complaint filed 7/21/26).* A trade association that represents members of the blockchain industry globally – including digital asset exchanges, traditional financial institutions implementing blockchain technologies into their products and services, and other blockchain economy participants in Illinois and across the country – filed suit seeking, among else, declaration that Illinois' new "Digital Asset Tax" on the privilege of receiving digital asset business activity by a customer in Illinois that is to be collected and remitted by "digital asset brokers" beginning January 1, 2027 [see *S.B. 3019 (Public Act 104-0468)* and *previously issued Indirect Tax Alert* for more details on this new tax] is facially invalid under the Illinois and United States Constitutions and is preempted by the federal Internet Tax Freedom Act (ITFA). According to the filed complaint, "this action presents a question of first impression under the Illinois and United States Constitutions and federal law" – that is, "whether a State may tax property and commerce based not on their economic substance, but on the technological infrastructure through which they are recorded, held, and transferred."

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Illinois – DOR Says Remote Seller's Inventory Held by Marketplace Facilitator May Not Create Physical Presence Nexus

General Information Letter ST 26-0024-GIL, Ill. Dept. of Rev. (6/12/26). Responding to an inquiry by a private accounting firm specializing in sales and use tax compliance and consulting regarding whether inventory owned by a remote seller but stored and controlled within Illinois by a third-party marketplace facilitator creates physical presence nexus for the remote seller in Illinois, an Illinois Department of Revenue (Department) general information letter explains that remote retailers who maintain inventory at the location of a marketplace facilitator in Illinois that is only used to fulfill sales through the marketplace that meets Illinois' economic nexus tax remittance threshold generally do *not* have physical presence nexus based on that inventory being in Illinois. Specifically, the Department explains that, as of January 1, 2021, a remote retailer's inventory at the location of a marketplace facilitator in Illinois generally does not create a physical presence nexus when used exclusively to fulfill orders made over the marketplace that meets the tax remittance threshold, because the marketplace facilitator is considered the "retailer" with respect to these sales made over the marketplace. The letter also explains that a retailer that fulfills any of its own orders from its inventory in Illinois would not be considered a "remote retailer" and may have physical presence nexus in Illinois. Please contact us with any questions.

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Indiana – Fees for Cloud-Based Financial Educational Services and Software Deemed Not Taxable

Revenue Ruling 2026-04-RST, Ind. Dept. of Rev. (6/26/26). An Indiana Department of Revenue (Department) ruling involving a financial educational service provider that uses a secure digital platform to offer its customers a simulated business trading environment and other educational content accessible via web browser held that based on the provided facts, the company was merely providing temporary access to software over the internet, rather than any taxable specified digital products with permanent use, and thus its charged fees for such cloud-based educational services and software access were *not* subject to Indiana sales and use tax. In doing so, the Department explained that the company merely uses software in the performance of its nontaxable services, and that such software is electronically accessed by its customers "who have no permanent ownership of the software" and thus access to the software is *not* subject to Indiana sales and use tax. Under the provided facts, a customer could also download an optional "simulation-only application" component of the platform for trading; however, this application component was provided by an unrelated third-party through a "freeware application." The Department reasoned that this option to download the third-party software did not make the company's offering taxable downloadable software, because the optional software was not necessary to utilize the company's product and did not add additional functionality.

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Maryland – State High Court Agrees that Company's Equipment is Predominantly Used in Exempt Production Activity Rather than Non-Exempt Delivery

Case No. 12/25, Md. (7/17/26). In a case involving, among other issues, whether an electric utility company was eligible for Maryland sales and use tax refunds on certain equipment, the Maryland Supreme Court (Court) affirmed in part [see *Case No. C-02-CV-22-000534 (No. 81)*, Md. Ct. App. (11/22/24) and *State Tax Matters, Issue 2024-48*, for details on the Maryland Appellate Court's decision in this case] that, based on the provided facts, the company predominantly used certain conductor, substation, and transformer equipment for Maryland sales and use tax-exempt "production activity" rather than non-exempt delivery of electricity, and it therefore potentially may qualify for refunds on such equipment to the extent its underlying refund claims are deemed timely on remand. In doing so, the Court explained that the equipment that comprises a public utility company's transmission and distribution system subjects the electricity to a series of actions designed for the specific objective of delivering, over long distances, electricity generated out-of-state to Maryland customers "at a voltage suitable for use." In this respect, the Court reasoned that such equipment is used for "processing" and, as such, performs a "production activity" under applicable Maryland statutes. A lengthy dissenting opinion follows which, among its arguments, claims that principles of agency deference must yield to the Maryland Comptroller's determination that the equipment at issue was *not* predominantly used in exempt electricity processing. Please contact us with any questions.

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