



State Tax Matters

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Alerts

Executive order defers federal tax on dyed diesel fuel

On October 5, 2026, President Trump signed an executive order titled “Emergency Tax Relief on Diesel Fuel,” allowing dyed diesel to be used on highways through December 31, 2026, waiving certain related penalties, and deferring the federal excise tax on that fuel. It follows dyed diesel relief already issued by at least eleven states. Federal excise tax on clear diesel fuel remains unchanged.

Dyed diesel is the same fuel as on-road diesel but dyed red to mark it as untaxed fuel for off-road uses like farming and construction. On-road diesel is normally taxed at 24.4¢ per gallon federally and on average 35.8¢ per gallon among the states. However, dyed diesel is generally sold without these taxes, and therefore federal and state laws normally bar its use on public roads.

This Indirect Tax Alert summarizes the executive order and recent state actions on dyed diesel fuel to date.

URL: <https://www.deloitte.com/content/dam/assets-zone3/us/en/docs/services/tax/2026/us-tax-alert-executive-order-defers-federal-tax-on-dyed-diesel-fuel.pdf>

[Issued September 15, 2026]

Illinois Department of Revenue proposes rules on the Digital Asset Tax

On June 16, 2026, the Illinois Digital Asset Tax Act (“Act”) was enacted as part of Illinois Senate Bill 3019. The Act imposes a tax on the privilege of receiving digital asset activity by a customer in Illinois, at a rate of 0.2% of the value of a digital asset. The Act is subject to pending litigation in the Circuit Court of Sangamon County, Illinois, challenging the Act’s validity under the Illinois and U.S. Constitutions and the federal Internet Tax Freedom Act. On October 1, 2026, the parties jointly asked the court to enter a stipulated preliminary injunction postponing the Act’s effective date from January 1, 2027, to July 1, 2027. On October 7, 2026, the court signed the order, which postpones the Act’s effective date to July 1, 2027.

On September 28, 2026, the Illinois Department of Revenue issued proposed rules, at 86 Ill. Admin. Code Part 497 (“Proposed Rules”), to provide clarifications regarding the Act, with a public comment period open through October 30, 2026.

This Indirect Tax Alert summarizes the provisions under the Proposed Rules.

URL: <https://www.deloitte.com/content/dam/assets-zone3/us/en/docs/services/tax/2026/us-tax-illinois-department-of-revenue-proposes-rules-on-the-digital-asset-tax.pdf>

[Issued October 8, 2026]

Income/Franchise

Illinois – DOR Denies Alternative Apportionment Request Involving Gain from Sale of Business

General Information Letter IT 26-0012-GIL, Ill. Dept. of Rev. (9/4/26). In a recently posted general information letter, the Illinois Department of Revenue (Department) denied a corporate taxpayer's request to deviate from the use of Illinois' standard single sales factor apportionment formula by apportioning the gain from the sale of its business, including goodwill and other intangibles, using a historical average percentage of sales in Illinois. In doing so, the Department explained that the taxpayer failed to sufficiently show that application of Illinois' standard statutory formula did not fairly represent the market for its goods, services, or other sources of business income. Specifically, the Department highlighted that if the sale at issue was made in connection with a partial or complete withdrawal from the Illinois market and was derived from the sale of substantially all of its assets, then under 86 Ill. Adm. Code 100.3380(c)(2), the taxpayer's gross receipts from the sale, including goodwill, "shall be excluded from both the numerator and denominator of the sales factor," and thus concluded there would be no need for an alternative apportionment petition in this situation. The Department also explained that the taxpayer's petition failed to indicate the amount of goodwill attributed to the sale, and the amounts attributed to other assets, with the relative percentage of the goodwill to the taxpayer's entire gain – or "why equal weight would be given to years in which the taxpayer had no Illinois market at all." The Department also noted that just because "taxable income is greater in a taxable year under the statutory method and results in a sales factor that increases from the previous year due to an isolated or extraordinary transaction does not by itself constitute evidence of a grossly distortive result or unfair representation of the taxpayer's market in this State." Please contact us with any questions.

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Michigan – Updated Guidance on Calculating Premiums and Retaliatory Taxes for Insurer Unitary Business Groups

Notice: Calculating Premiums Tax and Retaliatory Tax Liability for a Unitary Business Group of Insurers, Mich. Dept. of Treasury (10/1/26). Pursuant to a 2024 Michigan Court of Appeals decision requiring a unitary business group (UBG) of insurers to file a unitary return that calculates both Michigan premiums tax and Michigan retaliatory tax liabilities at the UBG level, an updated Michigan Department of Treasury (Department) notice [see *State Tax Matters, Issue 2026-33*, for details on the earlier version of this notice] provides detailed guidance and specifics on how to actually calculate these two tax liabilities at the UBG level. The notice has been updated to "announce the publication of worksheets that can be used to file returns for any tax year prior to 2026." [See *Case No. 364790*, Mich. Ct. App. (6/20/24), and *State Tax Matters, Issue 2024-26* for more details on the 2024 decision, as well as *Notice to Taxpayers Regarding Nationwide Agribusiness Insurance Co v Department of Treasury*, Mich. Dept. of Treasury (2/19/26) and *State Tax Matters, Issue 2026-8*, for more details on an earlier Department notice addressing the same 2024 decision, and *Docket No. 21-000039*, Mich. Tax Trib. (9/29/26) and *State Tax Matters, Issue 2026-40*, for details on a recent Michigan Tax Tribunal decision in this case].

Please contact us with any questions.

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Gross Receipts

Washington – DOR Issues Guidance on Taxability of Third-Party Developer Charges for Master Copies of Software

Interim guidance statement regarding master copies of software, Wash. Dept. of Rev. (10/7/26). The Washington Department of Revenue (Department) posted interim guidance regarding the state business and occupation (B&O) taxability of third-party developer charges for the development of master copies of software and compensation for retained rights that constitute royalties. The Department generally explains that the tax treatment of third-party charges for the development of “master copies” of software depends on the nature of the transaction, and that a third-party developer charge generally is taxable as a professional service under the “service & other activities” B&O tax rate – unless the charge represents gross income from royalties, in which case the royalties B&O tax rate applies. According to the guidance, third-party developer charges must be classified as professional services subject to “service and other activities” B&O tax when the development activities are directly incorporated into the purchaser’s master copy, rather than licensed by the developer to the purchaser in the nature of a royalty. Additionally, the Department explains that third-party developer charges generally are subject to the “royalties” B&O tax classification when the developer receives compensation in the form of gross income from royalties related to retained rights in intangible property used in the purchaser’s “master copies” of software. The guidance includes several example scenarios and discussion on applicable B&O tax sourcing rules, and it notes that i) the tax results of specific situations must be determined after a review of all facts and circumstances, and ii) this particular guidance does *not* address the taxability of sales of master copies of software. According to the Department, this interim guidance statement may be relied upon while the Department develops permanent guidance addressing the same, and it remains in effect until it issues such final guidance, cancels this interim statement, or new legislation is enacted. Please contact us with any questions.

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Sales/Use/Indirect

North Carolina – Videogame Publisher’s Subscription Fees to Access Online Functionality are Taxable

[SUPLR 2026-0006](#), N.C. Dept. of Rev. (7/16/26). In a private letter ruling involving an out-of-state videogame publisher that, indirectly through a related entity, sells the videogame in electronic format to customers through third-party vendors, and which separately and directly offers players an optional monthly subscription plan required to access the online functionality of the videogame (including playing the videogame in a multiplayer setting), the North Carolina Department of Revenue (Department) concluded that such separate optional monthly subscription fees constitute taxable sales for North Carolina sales and use tax purposes. In doing so, the ruling explains that under the provided facts, the videogame meets the definition of taxable “prewritten computer software” under state law, and that because the optional subscription fees at issue are considered sales of a license to use portions of the downloaded videogame and facilitate the right to use aspects of the prewritten computer software, the optional subscription fees are similarly included in the definition of “tangible personal property” under applicable state statutes and constitute taxable sales. Note that in so ruling, the Department found the subscription to be a sale of electronically delivered software, and when sold as stand-alone services, software-as-a-service (SaaS) and infrastructure-as-a-service (IaaS) generally are nontaxable in North Carolina. Please contact us with any questions.

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