

Sales/Use:

West Virginia: Administrative Release Says Streaming Services are Taxable and are Not Digital Products

TSD-445: Sales and Use Tax for Streaming Services, West Vir. State Tax Dept. (8/21). The West Virginia State Tax Department (Department) issued administrative guidance concluding that certain streaming service providers selling streaming services in West Virginia are subject to the West Virginia consumer sales and service tax and use tax on these transactions. In doing so, the Department explains that a streaming service provider generally is a supplier of entertainment (music, movies, video games, etc.) or other content delivered electronically – usually by an internet, satellite or cable connection to the subscriber’s computer, television, mobile device, or any other device suitable for accessing such content – and that because there is no specific sales tax exemption regarding the provision of streaming services in West Virginia, such services are taxable. Moreover, the Department explains that a local West Virginia municipal sales or use tax “not greater than one percent may also apply if the sale is sourced to a municipality that imposes a municipal sales and use tax.” For those streaming service providers lacking an in-state physical presence, the Department refers such businesses to additional administrative guidance that applies to out-of-state remote sellers meeting post-*Wayfair* economic nexus thresholds.

URL: <https://tax.wv.gov/Documents/TSD/tsd445.pdf>

The Department also states that streaming services “differ from the sales of digital products” because “a digital product is a discrete identifiable item.” In contrast to businesses offering digital products, the Department explains that “when a consumer purchases streaming services, the consumer has generally bought access to curated entertainment content in the streaming service’s catalog, but has not procured a right to any specified digital product.” Please contact us with any questions.

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