

Apple brings the latest challenge to Chicago's "Netflix" tax on streaming services



David M. Kall | Thursday, August 30, 2018

Add Apple to the list of opponents to the city of Chicago's so-called "Netflix" tax on streaming services. We have been following litigation over the tax, which is officially named the "Amusement Tax" and imposed on consumers of streaming services. Service providers must collect the tax from customers and remit to the city of Chicago. Chicago adopted the 9 percent tax by administrative guidance in 2015 and amended its city code to provide for the tax in 2016.

Most recently, [we reported](#) that Circuit Court of Cook County upheld the tax against a legal challenge brought by several city residents. The claims resolved in the city's favor include the Chicago residents' assertion that the city's tax on streaming services violated:

1. The Internet Tax Freedom Act
2. The dormant Commerce Clause doctrine of the U.S. Constitution
3. The Uniformity Clause of the Illinois Constitution
4. The city's home rule authority.

As expected, the city residents have now filed a notice of appeal to challenge the ruling.

Earlier this week, Apple, Inc. filed its own case against the city to challenge the tax on streaming services on similar grounds. The tax is imposed on Apple's customers that purchase music delivered electronically to desktop and tablet computers, cellphones, and other devices.

According to the [complaint](#) filed in the case, "Apple must incur substantial costs to reconfigure its normal business practices related to transactions with customers with Chicago billing address, including

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modifying its computer systems and invoicing procedures, preparing and filing Amusement Tax returns and maintaining secure documentary proof of taxable and nontaxable transactions, causing it irreparable harm for which it has no adequate remedy at law.” Further, “If Apple does not collect the tax from its customers, it will be directly liable for a tax that the city of Chicago has no power to impose or authority to enforce.”

We will keep you posted with all the most recent developments.



David M. Kall

[Team member bio](#)