

## Uniform taxation of digital goods and services remains elusive



David M. Kall | Friday, June 14, 2019

The taxation of digital services remains uncertain and non-uniform for many companies that offer streaming, web hosting, and other digital products and services. According to [Bloomberg Tax](#), the following reflects the current state of the tax law for some digital products and streaming video services:

Item	Tax imposed	No tax imposed	It depends
Selected digital products (relating to data centers, computers and equipment, and computer software and cloud computing)	<b>22 states + DC</b>	<b>18 states</b>	<b>9 states</b>
Streaming video services	<b>24 states + DC</b>	<b>21 states</b>	<b>5 states</b>

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### Mounting Lawsuits & Legislative Debates

Amid the uncertainty and lack of uniformity, courts are being asked to interpret state laws and regulations as debates rage in state legislatures across the country and even Congress. The Arizona Tax Court in particular currently has a spate of legal challenges from the likes of Netflix Inc., GoDaddy Inc. and Automatic Data Processing Inc. Some of these cases address what is tangible personal property in the digital world and subject to taxation under laws that generally pre-date some technological advancements with respect to digital goods and services. We have also been [following](#) litigation challenging a Chicago tax streaming services.

Meanwhile, other tech companies including Microsoft, Amazon, Intel, and AT&T support proposed state legislation in Arizona that would tax digital goods because it would provide a more certain taxing environment. Proposed legislation to tax digital products is also pending in Nevada and Georgia.

### How to Achieve Uniformity

Back in March we [reported](#) that the Digital Goods and Services Tax Fairness Act had been introduced in Congress to promote uniformity in state taxation of digital goods and products. The bill still has not moved out of committee and likely faces significant opposition due to the state sovereignty concerns raised any time Congress wades into the areas of state taxation.

Uniformity in state taxation is nonetheless and noble and attainable goal if it can be achieved through a coordinated efforts among the states to pass uniform state legislation. The Streamlined Sales and Use Tax Agreement, to which 23 states belong, is one avenue to promote uniformity and encourage dialogue on model or uniform legislation. For now, we will continue to monitor developments in the courts, legislatures, and with technological advancements that may create new opportunities but also pose new legal issues.



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