

Hello. It looks like you're using an ad blocker that may prevent our website from working properly. To receive the best experience possible, please make sure any blockers are switched off and refresh the page.

If you have any questions or need help you can email us

and local tax collections. To replenish their coffers, state and local governments have developed a patchwork of new streaming-specific taxes that ...

Sep. 23, 2020



The shift from cable to streaming services has taken an enormous bite out of state and local tax collections. To replenish their coffers, state and local governments have developed a patchwork of new streaming-specific taxes that use varying tax constructs to achieve their end. This accelerating and extremely complex trend is complicating tax compliance for businesses using streaming services.

Cable's been around a long time. It brought television to remote parts of Arkansas, Oregon, and Pennsylvania in 1948, and the first cable networks emerged in the 1970s.

Consumers know how to use cable; states and cities know how to tax it. But viewers

Hello. It looks like you're using an ad blocker that may prevent our website from working properly. To receive the best experience possible, please make sure any blockers are switched off and refresh the page.

If you have any questions or need help you can email us

There are several reasons for this shift toward streaming, not least of which is cost. Cable tends to cost consumers more than streaming, and [although more states now tax the sale of streaming services than don't](#), streaming service providers continue to pay less in taxes than cable companies. This is particularly true at the local level because most cities and counties charge cable companies for the right to access municipal rights-of-way with their infrastructure — the poles and underground connections through which the cable lines travel. In Porter County, Indiana, alone, video franchise fees on cable companies generate close to half a million dollars annually.

If a growing number of local governments get their way, streaming companies may soon have to pay those fees, too. Several cities and counties in Indiana, Missouri, and Texas are suing for the right to tax streaming service providers like Hulu and Netflix. They argue streamers should pay the municipalities franchise fees for the right to use the municipal right-of-way that affords access to consumers.

For example, the [Texas suit](#) reads, in part: “Defendants provide video service in Texas municipalities. When doing so, they use wireline facilities (i.e., broadband wireline facilities) located at least in part in public rights-of-way. Accordingly, Defendants should be and are required by law to pay each of those municipalities a franchise fee of 5% percent of their gross revenue, as derived from their providing video service in that municipality” (hat tip to Bloomberg Law).

The theory of these cases depends on the idea that streaming services utilize physical internet connections in the public right-of-way to deliver the product to the customer. This argument isn't a given set up for success. Local governments generally own telephone poles and phone or cable companies usually own the lines providing the internet, but streaming providers often don't own, sell, or control either.

Furthermore, application to these services may not be consistent with the intent of

Hello. It looks like you're using an ad blocker that may prevent our website from working properly. To receive the best experience possible, please make sure any blockers are switched off and refresh the page.

If you have any questions or need help you can email us

Simply put, “the local patchwork nature presents a potential compliance nightmare for nationwide services.” And while cable providers had decades to adapt to these taxes, “streamers may have to learn on a much faster timeline.” Mission creep could pose another problem. Bargar asks, “If streaming services are subject to these local regulatory fees merely for being carried over local internet connections, what other over-the-top services might be subject as well?”

Learn more about state and local taxes on streaming services in [Navigating communications taxes for streaming and other digital content](#). Get help complying with these taxes with [Avalara for Communications](#). Or [contact us](#) for more information.

=====

Gail Cole has been researching, writing, and reporting tax news for Avalara since 2012. She's on a mission to uncover unusual tax facts and make complex laws and legislation more digestible for accounting and business professionals — or anyone interested in learning about tax compliance. [Get more sales tax news from the Avalara blog](#).

Sales Tax

CPA Practice Advisor is registered with the National Association of State Boards of Accountancy (NASBA) as a sponsor of continuing professional education on the National Registry of CPE Sponsors.

Hello. It looks like you're using an ad blocker that may prevent our website from working properly. To receive the best experience possible, please make sure any blockers are switched off and refresh the page.

If you have any questions or need help you can email us