



This Week in State Tax (TWIST)

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Kentucky: Retroactive Changes Made to Law Imposing Sales Tax on Enumerated Services

Recently enacted Kentucky House Bill 360 makes changes to the statutes that imposed sales and use tax on various new services effective January 1, 2023. First, the bill removes “marketing services” from the list of taxable services. New definitions are adopted for taxable “lobbying services” and “executive employee recruitment services,” and the definition of “cosmetic surgery services” is amended to exclude medically necessary surgery services to reconstruct or correct dysfunctional areas of the face or body. An interesting change has been made to the definition of taxable telemarketing services, which previously meant services provided via telephone, facsimile, email and other modes of communication, to another person, which are unsolicited by that person, for the purposes of (a) promoting products or services; taking orders; or providing information or assistance regarding the products or services; (b) soliciting contributions. House Bill 360 revises the definition of “telemarketing services” to also include services provided via text messages or various forms of social media.

Certain of the changes address prewritten computer software access services, which were newly taxable as of January 1, 2023. Warranties for prewritten computer software access services are now included in the definition of “extended warranty services” and are therefore taxable. A new carve out from the definition of “use” applies to “prewritten computer software access services purchased for use outside the state and transferred electronically outside the state for use thereafter solely outside the state.” Finally, a new exemption applies to prewritten computer software access services sold to or purchased by a retailer that develops prewritten computer software for prewritten computer software access services for print technology and uses and sells prewritten computer software access services for print technology. All these changes are effective retroactively to January 1, 2023, but no interest will be paid on any refund resulting from the enactment of House Bill 360. Please contact [Dave Perry](#) with questions on House Bill 360.



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