



House Budget and Research Office

COVERDELL LEGISLATIVE OFFICE BUILDING, ROOM 412
ATLANTA, GEORGIA 30334
404-656-5050

MARTHA R. WIGTON
DIRECTOR

Modernizing the Sales Tax to Include Digital Products

The 'Georgia Retailers' and Consumers' Sales and Use Tax Act' became effective April 1, 1951 and through the first 69 years of existence has taxed items in a manner largely unchanged. Exceptions include the passage of exemptions on food for off-premises consumption (groceries) and energy used in manufacturing and agriculture. There have been many changes in our daily lives and in the products we purchase and the delivery of those products since then, especially over the technological revolution in the past 20 years. Until recently, there had not been any attempt to modernize the Georgia sales tax Code sections to reflect the new digital way that Georgians acquire goods and entertainment. That changed during the 2018 Legislative Session when the expected decision in the U.S. Supreme Court *South Dakota v. Wayfair* case prompted the passage of an update to the sales and use tax Code to allow the state to require out-of-state retailers with an economic presence in Georgia to collect and remit the applicable sales taxes on sales made within Georgia. The Code was further amended during the 2020 Legislative Session by requiring marketplace facilitators with an economic nexus in Georgia to collect and remit the applicable sales and use tax on sales of third-party products within Georgia made over their platforms.

The [economic nexus](#) and [marketplace facilitator](#) revisions to the sales and use tax Code were made in response to an evolving retail sector that is utilizing the internet to market and sell physical and digital products more with each passing day. Neither of these revisions modified the products that are taxable in Georgia, but rather who is responsible for collecting and remitting the owed taxes. The next step in modernizing the Georgia sales tax Code is to apply the sales tax to digital products that, in a tangible form, are currently taxable and have been taxable since 1951. This includes e-books, videos, and music in both subscription-based plans and individual purchases.

Of the 45 states and the District of Columbia that impose a sales tax, 30 charge sales tax on digital products, including three of Georgia's neighbors: Alabama, North Carolina, and Tennessee. In states where digital products are subject to sales tax, the products are treated as tangible personal property and are subject to the full sales tax rate at both the state and local levels. There are also 22 states that impose the sales tax on streaming services.

forms are decreasing, 2019 revenue from paid subscriptions to music streaming services increased 27.5 percent to over \$5.9 billion. The number of paid music streaming subscriptions has steadily increased over the past decade and appears to be the way of the future.

Legislation drafted during the 2017 Legislative Session and introduced during the 2020 Legislative Session ([HB 1056](#)) proposed expanding the sales and use tax to digital products and subscriptions. According to the [fiscal note](#), the revenue impact from modernizing and expanding the sales tax base to include digital products and subscriptions would be an increase of \$61 - \$109 million in state funds and \$46 - \$81 million in local funds for FY 2021.