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TaxNewsFlash

United States

No. 2017-108
March 6, 2017

KPMG reports: California (doing business); Colorado (use-tax reporting); Michigan (unitary group); New Jersey ("investment company" status); New Jersey (sales-leaseback)

KPMG's This Week in State Tax—produced weekly by KPMG's State and Local Tax practice—focuses on recent state and local tax developments.

- **California:** The Franchise Tax Board announced that it would not appeal a state appeals court decision in *Swart Enterprises* (corporate taxpayer found not "doing business" in California merely by virtue of passively holding a 0.2% ownership interest in a manager-managed California LLC). The decision addressed tax years before the state's "doing business" standard was revised to include a "factor presence" test.

- **Colorado:** Use-tax reporting requirements will be effective July 1, 2017, following settlement of a lawsuit challenging the state's 2010 enactment of a law requiring certain retailers not required to collect sales and use tax on sales into the state, to report certain information to the state.

- **Michigan:** The state treasury department issued guidance explaining how it will apply a state appellate court's decision in *LaBelle Management* (invalidating the ownership test applied by the department in determining when entities are included in a unitary group).

- **New Jersey:** The state tax court invalidated a regulation that excludes certain non-publicly traded pass-through ownership interests as a qualifying asset under the test for determining "investment company" status (i.e., "investment companies" eligible for certain tax benefits).

- **New Jersey:** The state tax court held that the taxpayer did not own assets subject to a sales-leaseback transaction, and thus, because the property was not "owned" by the taxpayer, it was not included in the taxpayer’s New Jersey property factor. Further, rental income from the property was not included in the receipts factor.

Read more at KPMG's ***This Week in State Tax***

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