



TaxNewsFlash

United States

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KPMG reports: California (NOL limitations); Pennsylvania (support services); Tennessee (software); Texas (method of accounting)

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 issued a technical advice memorandum addressing whether the limitations of Internal Revenue Code (IRC) sections 382-384, which generally limit the use of losses and other tax attributes after a substantial change in ownership, apply in California on a pre- or post-apportionment basis.
- **Pennsylvania:** The Department of Revenue revised and re-issued a letter ruling addressing the imposition of sales and use taxes to support services provided with canned software and other digital products. The revised letter ruling narrows the department's interpretation of "support" to mean "identifying the source of problems affecting the usability of the property and/or attempting to place the property in or restore the property to a useable state." Specifically, the department stated that "support services" do not include training or consulting services, unless the consulting services otherwise fall within the definition of support.
- **Tennessee:** The Department of Revenue recently ruled that a taxpayer did not owe sales or use tax on the transfer of software that had been developed internally prior to the time that transferor became affiliated with the taxpayer. Tennessee's law that exempts transfers of computer software developed and fabricated by an affiliate company does not require the entities be affiliated at the time the software is developed.
- **Texas:** An administrative law judge determined that a corporate taxpayer was not allowed to amend its franchise tax reports to change its method of deducting or

capitalizing certain costs of goods sold, rejecting the taxpayer's claim that the regulatory prohibition against amending the return to change the accounting method was not supported by the statute and exceeded the tax commissioner's authority.

Read more at KPMG's [*This Week in State Tax*](#)

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