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KPMG reports: Minnesota (nexus); New Jersey (addback); Ohio (promotional items); Pennsylvania (apportionment)

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.

- **Minnesota:** Newly enacted legislation expands the sales and use tax nexus rules, and revises when a retailer is considered to have a sales and use tax collection obligation on sales made to in-state customers; there is also a collection requirement imposed on certain marketplace providers.

- **New Jersey:** The state's tax court held that a taxpayer that paid royalties to its parent company—a computer software developer—qualified for the "unreasonable exception" to the state's intangible expense addback statute. Under New Jersey law, royalties and other intangible expenses paid to a related party are required to be added back in determining taxable income, but there are various exceptions to the addback requirement, including if requiring the addback would be "unreasonable."

- **Ohio:** The Board of Tax Appeals held that certain promotional items (bobbleheads, player cards, team-themed gear, etc.) purchased by a professional baseball team were not "resold" to patrons as part of the ticket price, and thus affirmed the use tax assessed on the costs of the items purchased by the baseball team.

- **Pennsylvania:** A commonwealth court held that a township's business privilege tax imposed on franchise fees of a Texas-based corporation owner and operator of convenience stores violated the Commerce Clause of the U.S. Constitution because the tax was not fairly apportioned. The franchise fees were paid in exchange for various services provided at the company's Texas headquarters and elsewhere, and as such, the fees collected from the Pennsylvania stores were the product of interstate commerce and must be apportioned.

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

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