

TaxNewsFlash

United States



No. 2021-305
July 26, 2021

KPMG reports: Indiana (franchise fee litigation); Michigan (advertising materials)

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.

- **Indiana:** The U.S. Court of Appeals for the Seventh Circuit upheld a remand of a franchise fee dispute to state court. The underlying issue was whether certain streaming companies were "video service providers" required to pay quarterly franchise fees to several Indiana municipalities. Before the Seventh Circuit, the issue was whether the federal district court had properly invoked the doctrine of comity abstention to remove the case to state court, as requested by the municipalities. The Seventh Circuit, applying certain factors set forth by the U.S. Supreme Court, concluded that the district court did not abuse its discretion by granting the cities' motion to remand the dispute to Indiana state court. Read a [July 2021 report](#)
- **Michigan:** A state appellate court, in an unpublished opinion, held that a retailer's printed advertising materials were not subject to Michigan use tax. The advertising materials were printed outside of Michigan and sent to a mail vendor outside of Michigan to be processed and prepared for mailing. The appeals court concluded that the retailer did not "use" the materials in Michigan because it lacked control over the materials, despite the fact that it provided the mail vendor with the list of its Michigan customers and directed the dates on which mailings were to be distributed. These activities, in the court's view, did not involve "actual control over the process of delivery of the advertising materials." Read a [July 2021 report](#)

The information contained in TaxNewsFlash is not intended to be "written advice concerning one or more Federal tax matters" subject to the requirements of section 10.37(a)(2) of Treasury Department Circular 230, as the content of this document is issued for general informational purposes only, is intended to enhance the reader's knowledge on the matters addressed therein, and is not intended to address the circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

The KPMG name and logo are trademarks used under license by the independent member firms of the KPMG global organization.

KPMG International Limited is a private English company limited by guarantee and does not provide services to clients. No member firm has any authority to obligate or bind KPMG International or any other member firm vis-à-vis third parties, nor does KPMG International have any such authority to obligate or bind any member firm.

Direct comments, including requests for subscriptions, to [Washington National Tax](#). For more information, contact KPMG's Federal Tax Legislative and Regulatory Services Group at + 1 202.533.4366, 1801 K Street NW, Washington, DC 20006-1301.

To unsubscribe from TaxNewsFlash-United States, reply to [Washington National Tax](#).

[Privacy](#) | [Legal](#)