



TaxNewsFlash

United States



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KPMG reports: Hawaii (software, excise tax); Pennsylvania (erroneous sales tax collection); Oregon (corporate activity tax)

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.

- **Hawaii:** The Department of Taxation confirmed that both prewritten and custom software are subject to general excise tax—regardless of delivery method. The sale of prewritten or canned software is considered a sale of tangible personal property, while the provision of custom software is a service. Read an [August 2021 report](#)
- **Pennsylvania:** A federal district court dismissed a class action suit alleging that a multistate retailer's erroneous sales tax collection violated Pennsylvania's unfair trade practices and consumer protection law. The law is concerned with unfair or deceptive activity "in the conduct of any trade or commerce." The case was brought by an individual who alleged he was erroneously charged sales tax on purchases of energy drinks. The federal district court concluded that when a retailer acted as a sales tax collection agent for the government, it was not acting in the conduct of any trade or business. The court also rejected the plaintiff's common law claims because Pennsylvania law provides that the exclusive remedy for overpayment of sales tax is for a customer to request a refund from the Department of Revenue. Read an [August 2021 report](#)
- **Oregon:** Recently enacted Senate Bill 164 makes several changes to the corporate activity tax (CAT) law, including adopting a new definition of "tax year." As newly defined, "tax year" means a taxpayer's annual accounting period for federal income tax purposes. As such, under the legislation, taxpayers will use their federal tax year as the tax year for the CAT (whereas, all CAT taxpayers previously use the calendar year). To facilitate the change, fiscal year taxpayers will need to file a short-year return covering the period from January 1, 2021, to the last day of the taxpayer's fiscal year that ends in 2021. This return will be due by April 15, 2022, and the Department of Revenue is working on issuing guidance on the law change. Read an [August 2021 report](#)

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