



TaxNewsFlash

United States



No. 2021-420
October 20, 2021

KPMG report: State and local tax, technology-related developments (table, third quarter 2021)

A report of U.S. state and local tax developments concerning technology-related tax issues, for the third quarter of 2021, provides updates in table format and covers topics such as the taxability of software, guidance on digital equivalents, and other items.

Read the [KPMG report](#) [PDF 87 KB] of state and local technology-related tax developments for the third quarter of 2021.

Highlights

- **Arizona:** The Department of Revenue ruled that a taxpayer's provision of a temporary, non-perpetual right to use digital data was subject to Arizona's transaction privilege tax (TPT) under the personal property rental classification. The Department concluded that the dominant purpose of the transaction at issue was the provision of unrestricted access to data. Under the "common understanding" test, the Department determined that taxpayer was primarily renting tangible personal property, rather than rendering a service.
- **Missouri:** The legislature passed House Bill 271 that prohibits the state or any political subdivision from imposing any new tax, license or fee, in addition to any tax, license or fee already authorized on before August 28, 2021, on the provision of a satellite or streaming video service.
- **West Virginia:** The State Tax Department issued guidance clarifying that sales of streaming services are not exempt from sales and use tax. The guidance specifically differentiates between streaming services as generally involving a consumer purchasing access to curated entertainment content as opposed to digital products which are considered discrete identifiable items (e.g., a downloaded movie). The guidance further notes that West Virginia law does not have an exemption or that no exception exists for streaming services, and therefore, such services are subject to the West Virginia consumer sales and service tax and use tax.
- **Multistate:** In the recent years, many states have addressed the taxability of online learning. Recently, Colorado, Iowa, North Carolina, and Washington State have all determined that web-based education is subject to sales and use tax. Each of these states has used varying approaches

to address the taxability question, such as taxing the web-based training as SaaS, a digital product or a taxable service.

kpmg.com/socialmedia



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 1037(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](#)