TaxNewsFlash

United States

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KPMG reports: Arkansas (income tax rate reductions); Massachusetts (nexus for online retailer); Washington State (notice requirement)

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.

- **Arkansas:** Legislation was signed into law that reduces the state's corporate and individual income tax rates over a period of years. The rate reductions, however, will not occur if a "revenue shortfall" develops that necessitates a transfer of funds from the state's fund established to provide for education and/or the effective operation of state government.

- **Massachusetts:** The Appellate Tax Board concluded that the Commissioner could not require an out-of-state online retailer to collect and remit Massachusetts use tax under a regulation promulgated by the Commissioner before the *Wayfair* decision. Under the regulation, a taxpayer with more than $500,000 in Massachusetts sales from 100 or more online transactions with Massachusetts customers, coupled with the placement of cookies and use of apps and content delivery networks, was deemed to have nexus with Massachusetts. In the Board's view, the *Wayfair* decision could not be applied retroactively, and the use of cookies, apps, and content delivery network servers did not constitute sufficient physical presence under *Quill* to justify the assessment.

- **Washington State:** A tax review officer determined that the Department's use of a secure messaging system to notify a taxpayer of an assessment was sufficient notice. The taxpayer asserted that because it never received an electronic copy or hardcopy of the assessment, the assessment was invalid. However, the Department was able to establish that it sent the assessment to the taxpayer and that the taxpayer's failure to open the secure message was akin to receiving an envelope but deciding not to open it.

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