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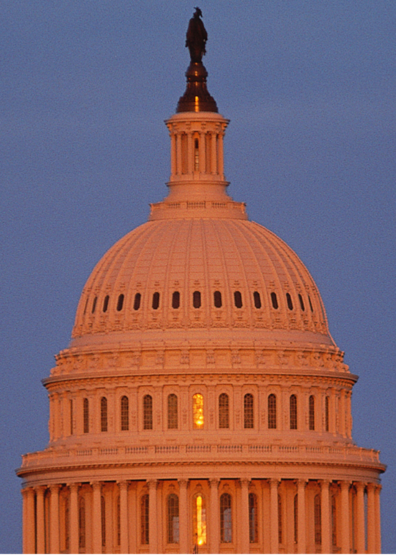
United States



No. 2022-022
January 18, 2022

KPMG reports: Florida (automatic corporate refunds); Massachusetts (manufacturing corporation status); Tennessee (drop shipment rule); Virginia (credit for taxes paid to another state)

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.

- **Florida:** The Department of Revenue issued information on the automatic refunds Florida corporate income/franchise tax taxpayers will receive this spring. The automatic refunds are associated with tax years beginning on or after April 1, 2019, and on or before March 31, 2020.

- **Massachusetts:** The Appellate Tax Board concluded that a company that developed computer software was a manufacturing corporation eligible for a local property tax exemption and entitled to use single-sales factor apportionment. In reaching this conclusion, the Board rejected the Commissioner's position that the taxpayer was not selling software to customers but was using it to provide services. In the Board's view, the Commissioner's own factors distinguishing a taxable sale of software from a non-taxable sale of a service—developed in the sales tax context—supported the taxpayer's position.

- **Tennessee:** The Department of Revenue issued a sales tax notice addressing the repeal of its drop shipment rule. After the repeal of the drop shipment rule, an out-of-state dealer (including an out-of-state marketplace seller) may purchase products for resale that are drop shipped from a Tennessee dealer to the Tennessee dealer's customer by providing the in-state supplier a resale certificate by another state or a fully completed streamlined sales and use tax agreement (SSUTA) exemption certificate including the sales tax ID number issued by another state. The notice also explains that out-of-state dealers not registered for sales tax in any state may use a SSUTA exemption certificate including a tax ID number for another tax type issued by the dealer's home state. Foreign sellers not registered in any state may use a SSUTA exemption certificate including a tax ID number issued by the seller’s home country.

- **Virginia:** The Department of Taxation addressed whether a credit for taxes paid to another state may be claimed by owners of pass-through entities that elect to be taxed at the entity-level in Maryland. The Virginia credit statute provides that tax paid by an electing S corporation is considered paid by its individual shareholders proportionate to their ownership percentage. The statute is silent regarding the treatment for tax paid by other types of pass-through entities and a Virginia regulation expressly states that a credit may not be claimed by an individual for tax imposed by another state on a distributing entity except when the entity is an S corporation. As such, the Commissioner concluded that Virginia resident owners of an electing pass-through entity (other than an S corporation) are not eligible to claim the credit for taxes paid to another state on their individual income tax returns.

Read a **January 2022 report** prepared by KPMG LLP

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