

TaxNewsFlash

United States



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KPMG reports: Idaho (sales-factor apportionment); New Jersey (employee retention credit); New Mexico (gross receipts tax); New York (broker-dealer sourcing rules); Pennsylvania (employee retention credit)

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.

- **Idaho:** House Bill 563 (pending action by the governor) would: (1) adopt single-sales factor apportionment and market-based sourcing for receipts from sales other than sales of tangible personal property; and (2) revise definitions used in the apportionment statute and clarify the provisions around the use of an alternative apportionment formula.
- **New Jersey:** Under federal law, taxpayers cannot deduct wages that are the basis of the credits. Guidance regarding the federal employee retention credit—a refundable tax credit of 50% (or 70% for wages paid during the first three quarters of 2021) of up to \$10,000 in wages paid by an eligible employer—clarifies that corporate taxpayers are not allowed New Jersey state deductions for disallowed federal wage expenses.
- **New Mexico:** Newly enacted legislation reduces the state's gross receipts tax rate to 5% (down from 5.125%) effective July 1, 2022. The legislation provides for a further reduction of the gross receipts tax rate with an effective date of July 1, 2023, but provides a rate increase if the gross receipts tax fails to generate sufficient revenue. Other recently enacted legislation allows pass-through entities to elect to pay tax at the entity level, for tax years beginning on or after January 1, 2022.
- **New York:** A state appellate court affirmed a decision of the tax appellate tribunal, holding that a corporate owner of a disregarded "single member limited liability company" (SMLLC) that was an SEC-registered broker-dealer could not source receipts that were derived outside of that SMLLC broker-dealer relationship using the state's broker-dealer customer sourcing rules.

In other words, on the overall corporate return, the corporate owner's receipts could not be sourced using the broker-dealer rules because the corporate owner legal entity was not itself a registered securities broker-dealer. Unless the taxpayer files an appeal with the state's highest court, the decision would be binding precedent for pre-2015 corporate tax, as well as for post-2015 tax years. The case is equally binding precedent with regard to the New York City unincorporated business tax (UBT) and the tax on S corporations—both of which contain the same broker-dealer sourcing rules.

- **Pennsylvania:** Regarding the federal employee retention credit, the Department of Revenue announced that there is no statutory provision allowing deductions for disallowed federal wage expenses for corporate net income tax purposes and that corporate taxpayers are not allowed state deductions for disallowed federal wage expenses.

Read a [March 2022 report](#) prepared by KPMG LLP

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