



TaxNewsFlash

United States



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KPMG reports: Colorado (SALT Parity Act), Tennessee (wholesaler/retailer certificates), Washington State (B&O tax on damages received)

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.

- **Colorado:** The Governor recently signed the SALT Parity Act, which revises the state's pass-through entity tax election to allow an S corporation or partnership to elect to pay tax at the entity level retroactively to tax years beginning on or after January 1, 2018. Originally, the election could be made only for tax years beginning on or after January 1, 2022. For tax years prior to January 1, 2022, the retroactive election can be made for each taxable year by filing an amended composite return on or after September 1, 2023, but before July 1, 2024.
- **Tennessee:** The state tax authority issued guidance addressing a new business tax wholesaler/retailer certificate available to taxpayers beginning January 1, 2023. To establish their business tax rate, taxpayers must determine whether they are primarily engaged in business as a retailer or as a wholesaler. On audit, taxpayers have found it difficult to prove wholesaler-to-wholesaler transactions. Under a new law, the tax authority must make available to each taxpayer that files a business tax return a certificate that indicates whether the taxpayer filed a business tax return at the wholesaler rate or at the retailer rate for each of a taxpayer's locations. A vendor may request the certificate from its customers and can rely on the certificate for transactions occurring during the certificate's effective period for purposes of determining the vendor's business tax liability.
- **Washington State:** A tax review officer concluded that a taxpayer was subject to business and occupation (B&O) tax at the service rate for amounts received as damages when customers rented and then caused damage to the taxpayer's RVs. In general, all gross receipts "actually received" by a business are subject to B&O tax. The officer concluded that under the rationale of prior determinations, the amounts were taxable because they were compensation to repair RVs damaged by drivers that were necessarily related to the taxpayer's ongoing business of renting RVs.

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

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