



TaxNewsFlash

United States



No. 2022-197
July 18, 2022

KPMG reports: Connecticut (investment tax credits); Delaware (unclaimed property laws); New Jersey (litter fee); Washington State (sales and B&O tax treatment of NFTs)

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.

- **Connecticut:** A superior court recently decided in favor of the tax authority in a dispute as to whether a corporate taxpayer qualified for fixed capital investment tax credits. The taxpayer was the sole member of two LLCs treated as disregarded entities under the federal check-the-box rules. The court concluded that the corporation could not claim the credits because the qualifying purchases were made by the LLCs. Notably, the credit statute did not address LLCs or otherwise require that the fixed capital asset be held and used by a “corporation” in the state.
- **Delaware:** Senate Bill 281 was recently enacted, making numerous changes to the state's unclaimed property laws. Notably, the bill expands the state's authority to enforce the unclaimed property statutes.
- **New Jersey:** The tax court concluded that a manufacturer of corrugated cardboard shipping containers and advertising displays was subject to the state's litter fee, which is in actuality a tax imposed on “each person engaged in business in the State as a manufacturer, wholesaler, or distributor of litter generating products.” The court rejected the taxpayer's argument that it was exempt from the litter fee because it recycled and also concluded that the taxpayer's displays did not have an artistic value that excluded them from the scope of the tax.
- **Washington State:** The tax authority recently issued an “interim” statement on the tax treatment of non-fungible tokens (NFTs). At this point, the Washington guidance is the most comprehensive document issued by any state taxing authority addressing the tax issues associated with NFTs. Its coverage includes determining the taxability and selling price of NFTs and the sourcing rules that apply to retail sales of NFTs, confirming that marketplace facilitators will be required to remit taxes on sales of NFTs, and providing guidance on the business and occupation (B&O) tax treatment of income from sales of NFTs.

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

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