



# TaxNewsFlash

## United States



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## KPMG report: State and local tax, technology-related developments (table, second quarter 2022)

A report of U.S. state and local tax developments concerning technology-related tax issues, for the second quarter of 2022, provides updates in table format and covers topics such as the taxability of software, guidance on digital equivalents, and other items.

Read the [KPMG report](#) [PDF 129 KB] of state and local technology-related tax developments for the second quarter of 2022.

### Highlights

- **Colorado:** The state has enacted a law imposing numerous new requirements on online marketplaces regarding the disclosure of information by “high-volume third-party sellers.” The new law, targeting potentially fraudulent online sellers, provides that online marketplaces must require a “high-volume third-party seller” to disclose certain information to the marketplace, including the seller’s bank account number, contact information, and business or individual tax identification number. A “high-volume third-party seller” is defined as a third-party seller that in any continuous 12-month period during the previous 24 months has entered into 200 or more discrete sales or transactions of new or unused consumer products for which the third-party seller has earned aggregate total gross revenues of \$5,000 or more.
- **Tennessee:** The state enacted legislation creating a broadband equipment exemption beginning July 1, 2022, which will run for three years through June 30, 2025. Specifically, the bill exempts from sales and use tax “purchases and leases of all equipment, machinery, software, ancillary components, appurtenances, accessories, or other infrastructure that is used in whole or in part to: (1) produce broadband communications services, including broadcasting, distributing, sending, receiving, storing, transmitting, retransmitting, amplifying, switching, providing connectivity for, or routing communications services or (2) provide internet access.”
- **Texas:** The state Supreme Court reversed a lower appellate court decision addressing how satellite radio subscription revenues should be sourced for Texas franchise tax purposes. Importantly, the court rejected the Comptroller’s use of the “receipt-producing, end-product act” test to determine where a service is performed. Instead, the court concluded that a service is performed in Texas when a taxpayer’s personnel or equipment is physically doing useful work for a customer in Texas.

- **Ohio:** The state Supreme Court, reversing a decision of the Board of Tax Appeals, held that taxable automatic data processing and electronic information services are distinct services from nontaxable personal and professional services such as software customization. Sales tax applies to transactions that involve automatic data processing, electronic information services, or computer services when the true object of the transaction is to obtain the work performed by computer systems. On the other hand, sales tax does not apply if the true object of the transaction is to obtain personal and professional services that are coupled with the work performed by computer systems.

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