



TaxNewsFlash

United States



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KPMG reports: Alabama (related-party addback rules); Alaska (combined reporting, foreign entities); Colorado (retail delivery fee); Idaho (guidance under revised sourcing laws)

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.

- **Alabama:** The state's tax tribunal held that a taxpayer was not required to add back interest paid to an Irish affiliate because it qualified for the subject-to-tax exception to the state's related-party addback rules. The Department of Revenue had tried to argue that because the foreign entity receiving the income was able to reduce its tax base by deducting interest paid to an affiliate, the subject-to-tax exception would not apply. However, the tax tribunal concluded that interest income that the foreign affiliate received from the taxpayer was considered subject to a tax even if no actual taxes were paid on such item of income in the taxing jurisdiction by reason of deductions or otherwise.
- **Alaska:** The state's Supreme Court held that a lower court did not err when it upheld the constitutionality of a statute requiring certain foreign corporations doing business or incorporated in no or low tax jurisdictions to be included in the Alaska combined report. However, the high court determined that the lower court erred when it held that the statute requiring the inclusion of entities doing business or incorporated in low or no tax jurisdictions was void for vagueness.
- **Colorado:** The Department of Revenue issued additional "frequently asked questions" (FAQs) on the \$0.27 retail delivery fee that retailers were required to begin collecting the fee on July 1, 2022. The fee applies to every retail sale of taxable tangible personal property that is delivered by a motor vehicle to a purchaser in Colorado. The FAQs confirm that the fee is not included in the tax base at the state level but, however, note that the fee may be subject to sales tax in self-collecting home rule jurisdictions. At least one city, Denver, is taking steps to revise its municipal code to exclude the retail delivery fee (and certain bag fees) from the city tax base.

- **Idaho:** The Tax Commission issued draft regulations addressing the state’s revised sourcing laws. The draft regulations generally incorporate the Multistate Tax Commission (MTC) model rules for sourcing service and intangible receipts, and also provide guidance on the annual election to use an evenly weighted three-factor formula that is available to electrical corporations, telephone corporations, communications companies, and taxpayers subject to a special industry apportionment rule under Idaho Rule 580.

Read an [August 2022 report](#) prepared by KPMG LLP

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