

TaxNewsFlash

United States



No. 2022-268
September 19, 2022

KPMG reports: Missouri (sales and use tax manufacturing exemption); North Carolina (service contract subject to sales and use tax); Pennsylvania (sales and use tax collection by out-of-state sellers); South Carolina (bookstore membership fees subject to sales and use tax)

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.

- **Missouri:** The Supreme Court held that a taxpayer did not qualify for sales and use tax manufacturing exemptions for purchases of computers and networking equipment used to generate vehicle history reports for customers. Creating the reports involved obtaining raw data, storing the data on a server in Missouri, and providing an automated data cleansing process to remove inconsistent entries. A report was extracted from the information in the database specific to a particular vehicle. The court noted that while this was a “close call,” the taxpayer was not manufacturing the reports. Based on the court’s previous determinations, “manufacturing” generally required a taxpayer’s output to have a separate and distinct use, identity, or value from the input. The court concluded that the taxpayer’s reports did not meet this distinct identity criteria.
- **North Carolina:** The state tax authority ruled that the provision of optional Helpdesk technical support was a taxable service contract subject to sales and use tax. The Helpdesk services at issue obligated the taxpayer to maintain, repair, monitor and perform other services included in the definition of repair maintenance and installation services. As such, the taxpayer’s services fell within the definition of a taxable service contract.

- **Pennsylvania:** The Commonwealth court held that certain out-of-state sellers did not have the minimum contacts necessary under the due process clause to be required to collect state sales tax for the tax years at issue. The court found that the sellers did not place their merchandise in the stream of commerce with the expectation that the merchandise would be purchased by consumers in Pennsylvania, and had not availed themselves of Pennsylvania's protections, opportunities, and services.
- **South Carolina:** The state's highest court held that membership fees that entitled bookstore customers to discounts on merchandise and free shipping were subject to sales and use tax because they were part of the "gross proceeds of sales." In the court's view, because a member would eventually purchase tangible merchandise from the bookstore, the membership fee was taxable even if purchased prior to the purchase of merchandise.

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

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