



# TaxNewsFlash

United States



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

A report of U.S. state and local tax developments concerning technology-related tax issues, for the third 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 108 KB] of state and local technology-related tax developments for the third quarter of 2022.

### Highlights

- **Maryland:** The state legislature enacted two identical bills intended to serve as technical corrections to a previously enacted law extending sales and use tax to a wide range of digital products. The new legislation clarifies that certain enterprise software and digital marketing products are exempt from sales tax.
- **Maine:** A telecommunications provider was not subject to the state's prepaid wireless fee but was properly subject to the state's service provider fee. Despite the taxpayer's Lifeline program having some hallmarks of a prepaid plan—such as no monthly billing relationship with customers—there was no indication that the taxpayer received federal subsidies as payment in advance of its provision of services. Therefore, the taxpayer was not subject to the prepaid wireless fees. The court did find that the taxpayer was subject to the service provider tax because the tax was applicable to the value of telecommunications sold in Maine even if the taxpayer received consideration from a third party.
- **Massachusetts:** The Department of Revenue issued a technical information release addressing the Massachusetts Supreme Judicial Court's decision in *Oracle USA, Inc. v. Commissioner*, concerning the apportionment of sales tax for software purchased by a taxpayer for use in multiple states. The technical information release states that in addition to the apportionment process set forth in the Department's regulations, a taxpayer may also apply for an abatement of sales and use tax.
- **Virginia:** The state Supreme Court reversed a circuit court's denial of a taxpayer's refund claim, concluding instead that Fairfax County's business and professional occupational license tax was preempted by the Internet Tax Freedom Act (ITFA). The court ruled that ITFA applied to the tax and that the tax did not come within ITFA's grandfather clause.

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