



# TaxNewsFlash

## United States



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## KPMG reports: Pennsylvania (sourcing of digital audio book sales); South Carolina (fees subject to sales and use tax); Washington State (sourcing of patent procurement services income)

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.

- **Pennsylvania:** The Board of Finance and Revenue denied a petition protesting the state tax authority's application of the sourcing rules for tangible personal property (i.e., based on delivery location) to a taxpayer's sales of digital audio books and other digital content. The Board found that the digital audio books sold by the taxpayer were akin to tangible personal property under the "essence of the transaction" test that is typically applied in the sales tax context to determine the nature of a sale.
- **South Carolina:** The state tax authority ruled that separately stated "inflation fees," "convenience fees," or "non-cash adjustment fees" charged by retailers in connection with the retail sale of tangible personal property, in order to recover certain operating costs, must be included in the "gross proceeds of sales" or "sales price" and are subject to sales and use tax—assuming the underlying retail transaction is subject to sales and use tax.
- **Washington State:** A tax review officer determined that a law firm's receipts from providing patent procurement services must be sourced based on where the taxpayer's clients' general strategic planning and corporate management activities occurred (i.e., at the clients' headquarters locations). The officer rejected the taxpayer's argument that its receipts must be apportioned equally to each of the 64 U.S. states, territories, and possessions because the benefits of its patent procurement services were received equally wherever a client received patent protection.

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

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