



# TaxNewsFlash

United States



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

A report of U.S. state and local tax developments concerning technology-related tax issues, for the fourth 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 107 KB] of state and local technology-related tax developments for the fourth quarter of 2022.

### Highlights

- **California:** A new 988 surcharge was imposed on sellers of telecommunications services and prepaid mobile telephony, effective January 1, 2023. The three-digit number was created to make it easier for individuals to seek immediate help during a mental health crisis. The new surcharge must be separately stated on service suppliers' invoices and may be combined with the state's existing 911 surcharge.
- **Colorado:** The state Department of Revenue addressed the taxability of a streaming company's sale of platform credits. The taxpayer's online platform enables people to view streaming videos, including videos created by third parties referred to as "Streamers." The platform credits can be used to show support for Streamers as well as provide enhanced interaction with those Streamers. The decision concluded that no state or state-administered sales tax was due when the company sold the platform credits or when the credits were redeemed by the purchaser.
- **Georgia:** The state Tax Tribunal concluded that a ride-sharing company was required to collect sales tax on a separately stated fee that was imposed on trips facilitated through the company's app. The fee was charged to riders to recover the costs of improving the safety of the company's platform. Although the taxpayer argued that the fee was associated with the cost recovery of nontaxable services, the Tribunal concluded that the fee was part of the "sales price" upon which Georgia sales and use tax is imposed.

- **New York:** The state Administrative Law Judge (ALJ) concluded that a taxpayer providing email tracking services was selling nontaxable information services and not licensing taxable prewritten computer software. In the ALJ's view, the taxpayer was selling a bundled service, which required the primary function test to be applied to determine taxability. The ALJ determined that the primary function was to provide customers with reports regarding activity associated with emails that the customers sent to their prospective clients.
- **Texas:** The state Comptroller determined that a web-based weather forecasting service was not a taxable information service. In Texas, information services are subject to tax, but an exclusion is provided for the "sale of information primarily derived from laboratory, medical, or exploratory testing or experimentation or any similar method of direct scientific observation of physical phenomena." In this case, the taxpayer primarily derived its service from the direct scientific observation of physical phenomena—the weather.

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