



# TaxNewsFlash

United States



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## KPMG reports: Arkansas (corporate rate reduction, throwback rule phase out); Kentucky (definition of telemarketing services); Washington State (B&O deduction for investment income)

KPMG This Week in State Tax—produced weekly by the KPMG State and Local Tax practice—focuses on recent state and local tax developments.

- **Arkansas:** Two bills were signed into law in that reduce the corporate income tax rate and phase out the throwback rule.
  - Senate Bill 549 reduces the state’s highest corporate income tax rate that applies to net income exceeding \$25,000 from 5.3% to 5.1%, effective for tax years beginning on or after January 1, 2023.
  - House Bill 1045 strikes the statutory language sourcing sales of tangible personal property to the U.S. government to the state where the shipment originates, effective for tax years beginning on or after January 1, 2024. The bill also slowly phases out the throwback rule that applies to receipts from sales of tangible personal property shipped from Arkansas where the taxpayer is not taxable in the destination state.
- **Kentucky:** Recently enacted House Bill 360 revised the definition of telemarketing services to include services provided via text message. The bill also added language that taxable telemarketing services provided via “other modes of communication” specifically includes services provided via

“various forms of social media.” House Bill 5, enacted a week later, removed the reference to various forms of social media.

- **Washington State:** An appellate court held that several investment fund limited liability companies (LLCs) did not qualify for a business and occupation (B&O) deduction for investment income. Under Washington law, a deduction is allowed in computing B&O liability for “amounts derived from investments.” The appeals court, relying on a 1986 Washington Supreme Court case, *O’Leary*, held that because the LLCs’ investments were their only businesses, they were not entitled to the investment income deduction under the *O’Leary* court’s reasoning. The court rejected the taxpayer’s position that amendments to the law superseded the definition of “investment” in *O’Leary* and that the state tax authority was bound by published guidance on its website indicating that private investment funds, like the LLCs were entitled to the B&O deduction.

Read an [April 2023 report](#) prepared by KPMG LLP

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