



# TaxNewsFlash

United States



No. 2023-248  
July 17, 2023

## KPMG reports: Hawaii (fuel tax replacement); Maryland (digital advertising tax); Massachusetts (software providers as manufacturing corporations); New Jersey (corporation business tax changes)

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

- **Hawaii:** Recently enacted Senate Bill 1534 sets the stage for eventually replacing Hawaii's existing motor fuel excise tax with a mileage-based road usage charge for all vehicles. The first part of that plan is to subject electric vehicles to a mileage-based road usage charge, effective July 1, 2025. Until June 30, 2028, owners of electric vehicles may elect to pay the current \$50 registration surcharge for electric vehicles in lieu of the state mileage-based road usage charge. The bill also requires the Department of Transportation to develop a long-term mile-based road usage charge implementation plan to encompass all passenger vehicles and light-duty trucks by December 31, 2033.
- **Maryland:** The Maryland Supreme Court issued an opinion setting forth its reasons for ordering a lower court to dismiss a lawsuit brought by two companies challenging the constitutionality of Maryland's digital advertising tax. At the outset of the opinion, the court noted that its resolution of the matter was not premised on any views of the merits of the challenges raised in the lawsuit. However, the court, after reviewing the Maryland statutes setting forth the remedies for resolving a tax dispute, concluded that those remedies were the primary, if not the exclusive, mechanisms for resolving tax disputes and an exception for constitutional challenges did not apply.
- **Massachusetts:** The Department of Revenue—through TIR 23-8—set forth the Commissioner's interpretation of the Appellate Tax Board's decision in *Akamai Technologies*. Based on the Board's decision, the Department determined that corporations selling access to software that allows customers to input their own information, manipulate the software, and run reports without interaction with the corporation or its employees, are engaged in the manufacture and sale of tangible personal property. Therefore, such corporations are manufacturing corporations for purposes of property and sales tax benefits and are required to use single sales factor apportionment for corporate excise tax purposes.

- **New Jersey:** Assembly Bill 5323—signed into law by the governor—makes significant revisions to New Jersey’s corporation business tax laws, including codifying certain of the Division of Taxation’s current positions, refining the state’s conformity to the “Tax Cuts and Jobs Act,” and revising New Jersey’s combined reporting provisions.

Read a [July 2023 report](#) prepared by KPMG LLP

[kpmg.com/socialmedia](https://kpmg.com/socialmedia)



The information contained in TaxNewsFlash is not intended to be “written advice concerning one or more Federal tax matters” subject to the requirements of section 10.37(a)(2) of Treasury Department Circular 230, as the content of this document is issued for general informational purposes only, is intended to enhance the reader’s knowledge on the matters addressed therein, and is not intended to address the circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

The KPMG name and logo are trademarks used under license by the independent member firms of the KPMG global organization.

KPMG International Limited is a private English company limited by guarantee and does not provide services to clients. No member firm has any authority to obligate or bind KPMG International or any other member firm vis-à-vis third parties, nor does KPMG International have any such authority to obligate or bind any member firm.

Direct comments, including requests for subscriptions, to [Washington National Tax](#). For more information, contact KPMG’s Federal Tax Legislative and Regulatory Services Group at + 1 202.533.3712, 1801 K Street NW, Washington, DC 20006-1301.

To unsubscribe from TaxNewsFlash-United States, reply to [Washington National Tax](#).

[Privacy](#) | [Legal](#)