



TaxNewsFlash

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KPMG reports: California (tax on lease of tangible personal property); Mississippi (computer software direct pay permits)

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

- **California:** The Office of Tax Appeals (OTA) concluded that a taxpayer furnishing go-karts to customers at its indoor racing venue was engaged in leasing tangible property, rather than providing a non-taxable amusement service. The taxpayer first asserted that the charges for go-karts were excluded from the definition of a lease because they were less than \$20. The OTA rejected this argument; even the least expensive race option was over \$20 because customers had to purchase a mandatory driver's license. With respect to whether the taxpayer was providing a nontaxable amusement service, the test to determine whether there is a lease versus the provision of an amusement is whether possession and control of the property is transferred to the lessee. In the OTA's view, the nature of go-kart racing was more akin to sporting activities in which participants exercised extensive control over the rented equipment. The OTA concluded that the taxpayer was engaged in leasing and was required to collect sales tax on the rental receipts.
- **Mississippi:** Following a law change earlier this year, the Department of Revenue announced that beginning July 1, 2023, purchasers of computer software and/or computer software services may apply for a computer software direct pay permit. The permit will allow the customer to purchase computer software and/or computer software services exempt from Mississippi sales or use tax and then remit the correct tax directly to the Mississippi Department of Revenue. The permit may be accepted only by vendors who sell, rent, or lease computer software and/or computer software services.

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

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