



TaxNewsFlash

United States



No. 2023-331
September 25, 2023

KPMG reports: Missouri (sales tax collection); North Carolina (sourcing rules); Tennessee (sales and use tax industrial machinery exemption); Washington State (manufacturing B&O tax)

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

- **Missouri:** The tax authority ruled that a food delivery platform was not required to collect and remit sales taxes on sales made to Missouri customers from in-state restaurants but could transfer sales taxes collected on behalf of the restaurants to the restaurants. The tax authority analogized the platform's role to that of a financial institution or credit card company that does not have a requirement to collect sales taxes on payments that it facilitates. The ruling did not address the state's marketplace facilitator law.
- **North Carolina:** The tax authority ruled that service fees received by the taxpayer from its foreign parent corporation as reimbursement for contract manufacturing services provided by the taxpayer to the parent must be sourced for corporate income tax purposes in the same manner as the parent. As such, applying the rule for sourcing sales of tangible personal property, the tax authority concluded that the service fees must be sourced to North Carolina if the finished product was ultimately delivered by the parent to a customer located in North Carolina.

- **Tennessee:** The tax authority ruled that when a taxpayer elected to be treated as a corporation for federal income tax purposes, its sales of fabricated goods to its parent would be counted in determining its classification as a manufacturer for purpose of Tennessee's sales and use tax industrial machinery exemption, which is granted to entities whose principal business is the fabrication or processing of tangible personal property for resale and consumption off the premises. An activity is a taxpayer's principal business if more than 50% of its revenues at a given location are derived from fabricating or processing tangible personal property for resale. If the taxpayer were treated as an entity disregarded as separate from its parent, the taxpayer would be treated as a division of the parent, and the sales to the parent would not count in determining if the principal business test was met.
- **Washington State:** A tax hearing officer for the Washington State Administrative Review and Hearings Division held that a taxpayer was subject to manufacturing business and occupation (B&O) tax with respect to sales of personalized pet products. The taxpayer argued that its personalization process did not change the quality of the products or the chemical, physical or functional properties of the items. The hearing officer disagreed, finding that the taxpayer was changing the physical property of the tags or collars by physically stamping or embroidering them. This, in turn, transformed the products from merely decorative items into a powerful method of identifying the owner of a lost pet.

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