



# TaxNewsFlash

United States



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## KPMG reports: California (Proposition 39 upheld); Kansas (corporate income tax rate reduction); New York (sales tax on clothing); Utah (sales tax on bundled digital subscription fees)

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:** An appeals court rejected a taxpayer's assertion that Proposition 39 was invalid because it violated the single-subject rule for ballot initiatives. Proposition 39—approved by voters in 2012—mandated that most corporate taxpayers use single-sales factor apportionment and the corresponding market-based sourcing rules. The measure also created a special apportionment rule for cable companies and created a fund for clean energy projects. The taxpayer asserted that the special tax break for cable companies had no reasonable connection to the proposition's overall purpose of funding the creation of clean energy jobs and therefore the measure was invalid.
- **Kansas:** The Secretary of the Kansas Department of Revenue filed a notice in the Kansas Register announcing that the normal corporate income tax rate will be reduced to 3.5% (from 4%) effective for tax years beginning on or after January 1, 2024.
- **New York:** The New York Division of Tax Appeals held that a party supply retailer properly collected and remitted sales tax on certain items of clothing. The auditor had concluded that the items at issue were costumes (which are not exempt from New York state (and certain local) sales taxes), but the court rejected the auditor's reliance on how the items were marketed and presented in stores and found that the descriptions on receipts provided to purchasers governed the taxability.
- **Utah:** The Utah State Tax Commission concluded that a taxpayer owed sales tax on subscription fees charged to customers for a bundled transaction that consisted of access to both streaming services (which is not subject to tax in Utah) and the ability to download programming for viewing offline (which is taxable in Utah).

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