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KPMG reports: Maine (service receipts); Missouri (resale exemption for use tax); Ohio (agent exclusion from CAT base); Texas (increase in franchise tax exemption)

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

- **Maine**: The Maine Supreme Judicial Court addressed whether a pharmacy benefit management company was entitled to apportion its service receipts based on the location the insurance companies that were its direct clients. The clients, in turn, provided benefits to their members. Under Maine law, receipts from the performance of services are generally attributed to the state where the services are received. The assessor asserted that the income generated from the performance of the services should be attributed to the retail pharmacy locations where the services were received by members when they filled prescriptions. The court agreed, holding that the receipts at issue resulted from the performance of claims processing services for members' prescription drug claims processed at retail pharmacies in Maine.

- **Missouri**: The Missouri Supreme Court affirmed an Administrative Hearing Commission decision concluding that a taxpayer was not prohibited from claiming a use tax resale exemption for purchases of information technology (IT) equipment. The state tax authority had challenged the use of the exemption to make purchases because, in its view, the taxpayer exercised more control over the use of the purchased IT equipment than was permitted to claim a resale exemption. The court disagreed, finding that the taxpayer's sole purpose was to purchase the equipment for resale.

- **Ohio**: The Board of Tax Appeals concluded that a food and hospitality services company that provided various managed services to businesses and government institutions was not entitled to an agency exclusion from the commercial activities tax (CAT) base. In the Board's view, the evidence showed that the taxpayer did not possess the requisite authority to qualify as an agent for purposes of CAT. Importantly, the taxpayer's contracts with clients did not provide the taxpayer with the authority to bind those clients for its purchases of goods.

- **Texas**: Senate Bill 3 increased the franchise (margin) tax exemption from $1 million to $2.47 million effective for reports originally due on and after January 1, 2024. The bill also repealed the requirement that certain businesses that fall under this exemption file a "No Tax Due Report" with the Comptroller. The Comptroller recently issued guidance on these changes in its November 2023 Tax Policy News.

Read a November 2023 report prepared by KPMG LLP

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