

# TaxNewsFlash

United States



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## KPMG reports: Illinois (constitutionality of retailer's occupation tax); Minnesota (goodwill gain is apportionable business income); Washington State (sales and 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.

- **Illinois:** A remote retailer of pet medications has filed a case with the Illinois Tax Tribunal challenging Illinois' Leveling the Playing Field Act that requires remote retailers to collect and remit both state and local retailer's occupation tax (ROT) based on the destination of its products sold. Currently, in-state retailers are required to collect and remit both state and local ROT based on the origin of the retailers' products sold. The taxpayer alleges that the Act violates the Commerce Clause of the U.S. Constitution because it "imposes a costly, objectively overly burdensome and time-consuming requirement upon remote retailers that is not imposed on in-state retailers." The taxpayer also asserts the law violates the Illinois Constitution's Uniformity Clause due to disparate treatment it receives versus similar retailers with a "minimal physical presence in Illinois."
- **Minnesota:** The Minnesota Supreme Court recently held that gain from the sale of a business' goodwill was apportionable business income, rather than nonbusiness income that was allocated. The court found that the statutory language was ambiguous, so it relied on the legislative history.
- **Washington State:** The state tax authority issued guidance on its website addressing the sales and business and occupation (B&O) tax consequences when self-publishing authors use marketplace facilitators for distribution and book sales. The guidance confirms that the portion of the purchase price of a book sold through a marketplace that is retained by the marketplace facilitator is included in the seller's B&O tax base and the author must collect sales tax unless the marketplace certifies that it is collecting and remitting.

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

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