



# TaxNewsFlash

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## KPMG reports: Colorado (sales and use tax); New York (property tax exclusion); multistate (online marketplace sales)

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

- **Colorado:** The Department of Revenue found that an optional delivery fee charged by an online car dealer for delivering a car to a customer's location was not subject to sales and use tax. The Department concluded that the delivery charge was separable from the sale of the motor vehicle because delivery was performed after the car was offered for sale and was optional. Second, the fee was clearly separately identified in the written retail purchase agreement.
- **New York:** The state Supreme Court, Appellate Division concluded that an internet, telephone, and cable television service provider had not established that it was entitled to a real property tax exclusion for equipment used to provide cable television services.
- **Multistate:** Appellate courts issued decisions in disputes related to liability for sales taxes on marketplace sales prior to the *Wayfair* decision.
  - **South Carolina:** The Court of Appeals affirmed an Administrative Law Court decision holding that an online marketplace facilitating sales for third-party merchants was required to collect sales and use tax on such sales to South Carolina customers for periods prior to when the state adopted marketplace facilitator rules.
  - **Washington state:** An appeals court addressed whether two merchants that utilized the marketplace and had inventory in Washington State were required to collect sales and use tax and pay retailing business and occupation (B&O) tax on sales facilitated by the marketplace for tax years before the state's marketplace law became effective. The court concluded that the merchants were required to collect and remit and could not rely on ignorance of the law as an excuse.

Read a [January 2024 report](#) prepared by KPMG LLP

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