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TaxNewsFlash

United States

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KPMG reports: Alaska (marketplace facilitators sales tax); Louisiana (industrial tax exemption program); New York (wine producer as qualified manufacturer); Wisconsin (withholding on software licensing income)

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

- **Alaska**: House Bill 378 would adopt a new state-level tax called the "marketplace facilitator sales tax." This 2% tax would be imposed on marketplace facilitators meeting the over $100,000 of sales / 200 transactions into the state threshold. The bill would not require in-state sellers or remote sellers not using the facilities of a marketplace to collect the new tax. The revenues collected from the tax may be appropriated to fund a new "organized retail theft fund."

- **Louisiana**: The governor signed an executive order making changes to the Industrial Tax Exemption Program. The program allows certain qualifying manufacturing businesses, either new to Louisiana or already in the state, to receive an 80% property tax abatement for up to 10 years for new investments and capitalized additions. The governor's executive order removes the requirement that a business create jobs to receive the abatement and simplifies the application approval process. In the event there is a disagreement over the approval of an application between localities and the state, the governor will make the final decision.

- **New York**: An Administrative Law Judge (ALJ) for the New York Division of Tax Appeals concluded that a taxpayer engaged in viticulture, which is the cultivation of grapevines for the purpose of growing and producing grapes, was a "qualified New York manufacturer or QNYM" for the tax years at issue. The dispute centered around whether the taxpayer used property in New York, which is a requirement for QNYM status, when it contracted with an unrelated land-management contractor to perform the work at the New York vineyard in accordance with the taxpayer's objectives and requirements. For various reasons, the ALJ concluded the taxpayer was using property in New York, despite not having any employees in the state.

- **Wisconsin**: The Tax Appeals Commission concluded that the licensing of computer software to Wisconsin users by an out-of-state LLC was not a protected activity under Pub. L. No. 86-272. As such, the Commission concluded that the LLC and its individual owner were required to withhold and pay Wisconsin income tax on the income generated from licensing activities in Wisconsin.

Read a February 2024 report prepared by KPMG LLP

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