



TaxNewsFlash

United States

No. 2016-362
August 15, 2016

KPMG reports: Arkansas (manufacturing exemption); California (throwback); Delaware (unclaimed property); Washington (B&O tax)

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

- **Arkansas:** An administrative law judge concluded that machinery used to reprocess waste material into a new product was not exempt from the sales and use tax under the state's manufacturing exemption.
- **California:** The Franchise Tax Board issued a chief counsel ruling, concluding that royalty income derived from an unrelated party's use of the taxpayer's licensed marks was not a protected activity under Public Law 86-272 and that the taxpayer's active involvement with the use of the licensed marks was not a de minimis activity. Thus, the taxpayer was considered taxable in the other states, and was not required to "throw back" receipts from sales of tangible personal property because it was not protected under Public Law 86-272 in those states.
- **Delaware:** A lawsuit concerning the constitutionality of certain aspects of Delaware's unclaimed property enforcement process is pending, with the parties filing a joint motion to dismiss the case with prejudice.
- **Washington:** An administrative law judge concluded that a medical imaging service provider could not deduct from its B&O tax base—the B&O tax being the tax that is imposed broadly on gross income without deduction for business expenses—amounts received from patients that were subsequently paid to a group of physicians. The fees paid to the physicians to interpret the medical images were not excludable from the B&O tax.

Read more at KPMG's [**This Week in State Tax**](#)

The information contained in TaxNewsFlash is not intended to be "written advice concerning one or more Federal tax matters" subject to the requirements of section 10.37(a)(2) of Treasury Department Circular 230, as the content of this document is issued for general informational purposes only, is intended to enhance the reader's knowledge on the matters addressed therein, and is not intended to be applied to any specific reader's particular set of facts. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. Applicability of the information to specific situations should be determined through consultation with your tax adviser.

KPMG International is a Swiss cooperative that serves as a coordinating entity for a network of independent member firms. KPMG International provides no audit or other client services. Such services are provided solely by member firms in their respective geographic areas. KPMG International and its member firms are legally distinct and separate entities. They are not and nothing contained herein shall be construed to place these entities in the relationship of parents, subsidiaries, agents, partners, or joint venturers. No member firm has any authority (actual, apparent, implied or otherwise) to obligate or bind KPMG International or any member firm in any manner whatsoever.

Direct comments, including requests for subscriptions, to [Washington National Tax](#). For more information, contact KPMG's Federal Tax Legislative and Regulatory Services Group at + 1 202.533.4366, 1801 K Street NW, Washington, DC 20006-1301.

To unsubscribe from TaxNewsFlash-United States, reply to [Washington National Tax](#).

[Privacy](#) | [Legal](#)