



# TaxNewsFlash

United States

No. 2024-032  
January 22, 2024

## **KPMG reports: Florida (sales factor litigation); Massachusetts (corporate excise tax changes); Washington State (capital gains as excise tax case)**

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

- **Florida:** Several taxpayers have asked a Florida appeals court to reverse the dismissal of a case involving the interpretation of the state's income-producing activity/costs of performance (IPA/COP) rule that applied to the taxpayers' receipts from sales of services. The trial court concluded that under the plain language of Florida's IPA/COP rule, receipts are sourced based on the transactions and activities of the taxpayer, not of the taxpayer's customer. The court also found that the Department of Revenue's inconsistent interpretation of its own rule likely violated Florida's taxpayer bill of rights. After the decision was released, the Department of Revenue asserted that the taxpayers failed to comply with certain statutory security requirements that, if not adhered to, deprived the court of subject matter jurisdiction over the suit. The court recognized that dismissal would be a harsh result given that the Department of Revenue did not raise this issue until more than three years after the case was filed. Nevertheless, the trial court dismissed the case and the taxpayers are now challenging that dismissal.
- **Massachusetts:** The Department of Revenue issued a working draft technical information release (TIR) addressing the 2023 legislation that requires all financial institutions and business corporations to apportion their income to Massachusetts for corporate excise tax purposes using the receipts or sales factor only, and revises the method used by financial institutions to source receipts from investment and trading assets and activities. The working draft TIR confirms that these changes are effective for tax years beginning on or after January 1, 2025. Under the legislation, the effective date was simply January 1, 2025.
- **Washington State:** The U.S. Supreme Court denied certiorari in a case challenging the constitutionality of the Washington State capital gains tax as an impermissible property tax on income (versus an excise tax on ownership), which was upheld last year by the Washington State Supreme Court. Although the U.S. Supreme Court has declined to hear the dispute, the fate of the capital gains tax may be decided by voters, as efforts to repeal the tax via a ballot measure are underway.

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

[kpmg.com/socialmedia](https://kpmg.com/socialmedia)



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 address the circumstances of any particular individual or entity. 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. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

The KPMG name and logo are trademarks used under license by the independent member firms of the KPMG global organization.

KPMG International Limited is a private English company limited by guarantee and does not provide services to clients. No member firm has any authority to obligate or bind KPMG International or any other member firm vis-à-vis third parties, nor does KPMG International have any such authority to obligate or bind any member firm.

Direct comments, including requests for subscriptions, to [Washington National Tax](#). For more information, contact KPMG's Federal Tax Legislative and Regulatory Services Group at +1 202.533.3712, 1801 K Street NW, Washington, DC 20006-1301.

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

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