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KPMG reports: Arizona (sales tax nexus); Kentucky (unitary combined reporting); Minnesota (corporate NOL limit change)

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

- **Arizona:** The Court of Appeals reversed a decision in which the state tax court held that a Wisconsin-based online auto parts retailer did not have substantial nexus with Arizona for the 2013-2019 periods at issue. The key issue was whether the distributors' activities enabled the taxpayer to establish and maintain a market for sales. The taxpayer argued that because the distributors did not have in person contact with Arizona customers, they did not help it establish and maintain a market for sales. The court, however, determined that in person contact was not required. Performing a contract was akin to maintaining a market and all the essential portions of the taxpayer's contracts with customers were performed by the distributors in Arizona.

- **Kentucky:** The legislature delivered the appropriations bill, House Bill 8, to the governor for signature. The bill would update the state's conformity to the Internal Revenue Code by adopting the Code as of December 31, 2023. Another change affects publicly traded companies whose deferred tax positions were negatively affected as a direct result of the move to unitary combined reporting. These companies were entitled to a deduction intended to offset the financial statement impact. Under House Bill 8 combined groups would be able to start taking the deduction for tax years beginning on or after January 1, 2026; currently, the deduction is allowed beginning with the 2024 tax year.

- **Minnesota:** House File 3769, which was signed into law on April 5, 2024, retroactively modifies the effective date for the corporate net operating loss (NOL) limit change from 80% to 70% of taxable income to tax years beginning after December 31, 2023.

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