



TaxNewsFlash

United States

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KPMG reports: Illinois (sales tax exemption); Massachusetts (tax amnesty program); Minnesota (market research activities); Texas (franchise tax, computer-based testing service)

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

- **Illinois:** The governor on August 5, 2024, signed House Bill 3144 (Public Act 103-0781), creating a state sales tax exemption for the sale of “food for human consumption,” which is defined as food for human consumption that is to be consumed off the premises where it is sold, other than alcoholic beverages, food consisting of or infused with adult use cannabis, soft drinks, candy, and food that has been prepared for immediate consumption.
- **Massachusetts:** The enacted budget bill contained provisions (H. 4800, sec. 225) authorizing the Department of Revenue to establish a 60-day tax amnesty program to be concluded no later than June 30, 2025. The amnesty program would waive all penalties for failure to file any return or pay any tax or estimated tax due for any return due on or before December 31, 2024.
- **Minnesota:** The state Supreme Court held that the collection of marketing information by sales representatives fell outside the scope of the law’s protection. The court concluded the collection of sales-related information following each customer visit was protected under P.L. 86-272. It did hold, however, that the collection, preparation and reporting of broader market information on customers was not entirely ancillary to solicitation. It further held that the activity was not de minimis as the collection of marketing data was “regular and systematic” and over 1,600 individual market notes were collected over a two-year period.
- **Texas:** The Comptroller of Public Accounts issued a memorandum on the application of the franchise tax statute of limitations when a taxpayer has requested an extension to file its franchise tax report. Generally, the statute of limitations to request refund or for the Comptroller to assess tax is four years from the date on which the tax “becomes due and payable.” Without an extension, franchise tax payments are due by May 15, and the statute of limitations begins to run on May 16. In another Texas

development, the Comptroller recently released a private letter ruling discussing the taxability of a fee charged by the taxpayer for its computer-based testing service. The Comptroller determined, however, that these activities were performed only to facilitate the testing and assessment of the examinee's readiness for higher education. Such a service is not an enumerated taxable service in Texas, and it was not, therefore, subject to tax.

Read an [August 2024 report](#) prepared by KPMG LLP

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