



TaxNewsFlash

United States

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KPMG reports: Arizona (transaction privilege tax); Illinois (sourcing obligations); Kansas (decoupling from section 163(j)); New Jersey (S corporation requirements); Washington State (tax exemption on shipping container repairs)

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 state Tax Court held that an NFL team failed to collect state and city transaction privilege tax (TPT) on a ticket surcharge. The fees at issue were per-ticket surcharges for events held at the stadium, including the team's home games and tickets sold through the stadium box office to other events. The fees were used to retire bonds issued by the Arizona Sports and Tourism Authority to finance the stadium. The team contended that the facility use fee should not be included in its gross income because it acted as an agent for the Arizona Sports and Tourism Authority in collecting the fee and that the fee was imposed on ticket purchasers, not the NFL team. Additionally, the team claimed the fee was not booked as either an expense or revenue for income tax purposes and was not subject to the NFL revenue sharing obligation. The tax court, however, determined that the definition of "gross receipts" includes all receipts from sales without deductions for expenses and that the taxpayer had cited to no authority allowing an exemption or deduction. Therefore, the tax court determined the facility use fee should be included in the TPT tax base.
- **Illinois:** The governor signed two bills that change the sourcing obligations of certain Illinois retailers and amend requirements for direct pay permit holders. Senate Bill 3362 adopts destination-based sourcing for in-state retailers maintaining a place of business in Illinois when they make sales that originate from inventory outside Illinois to customers in the state. Senate Bill 3282 mandates that each direct pay permit holder review its purchase activity by March 31, 2025, and annually thereafter by March 31, to verify that purchases made during the 12-month period ending December 31 of the prior year were correctly sourced and taxed at the appropriate rate.

- **Kansas:** The Department of Revenue issued guidance addressing the decoupling from IRC section 163(j). Under 2024 Senate Bill 410, Kansas decoupled from section 163(j) and allows a deduction for the current year's interest expense in its entirety for tax years beginning after December 31, 2020, without regard to any amount disallowed under the IRC.
- **New Jersey:** The Division of Taxation issued a revised Tax Bulletin TB 105-(R) implementing changes to the Corporation Business Tax for S Corporations and Qualified Subchapter S Subsidiaries (QSSS) that were enacted in December 2022. The guidance provides the procedures for a federal S Corporations or QSSS with a federal approval letter for its status. The guidance also includes details on the procedures for election into and revocation of the election to be treated as a C Corporation for New Jersey purposes.
- **Washington State:** The state Court of Appeals issued an unpublished decision holding that cleaning and repair services for a taxpayer's cargo ship containers and motor generators were not exempt from the retail sales tax. Because the cargo containers and refrigeration generators were not attached to the carrier property within the meaning of Washington's law, they could not be a component part of the property. Consequently, the cleaning and repair services for these items were ineligible for the tax exemption.

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