



TaxNewsFlash

United States

No. 2018-433
October 15, 2018

KPMG reports: Missouri (sales tax exemption); Texas (franchise tax nexus); Utah (arm's length transactions)

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.

- **Missouri:** The Department of Revenue ruled that an online marketplace used by a farmer to sell beef raised on a farm did not qualify as a “marketplace” for purposes of the “farmer’s market” exemption from the sales and use tax.
- **Texas:** The Comptroller determined that the taxpayer (a California company operating an online platform that allowed software developers to sell digital products to consumers and allowed third-party marketers to advertise a software developer’s products) did not have franchise tax nexus with Texas because it lacked a physical presence in the state.
- **Utah:** The state’s Supreme Court affirmed a lower court’s decision that Utah’s discretionary authority statute (measures allowing the taxing authority to allocate income, deductions, etc., among affiliated entities to clearly reflect income) is substantially similar to IRC section 482 and thus is to be interpreted by applying the federal regulations under IRC section 482. The Utah Tax Commission had invoked its discretionary authority statute to disallow royalty deductions made by the taxpayer to a related entity. The high court affirmed that the tax authority was prevented from exercising its discretionary authority because the transactions were at arm’s length (as defined pursuant to IRC section 482).

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](#)