



TaxNewsFlash

United States



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KPMG reports: Alabama (software sales); Colorado (combined reporting); New Jersey (combined reporting); New York (captive insurance); Ohio (sales tax exemption)

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.

- **Alabama:** The state's highest court held that canned and custom software is taxable tangible personal property and that Alabama sales and use tax law does not distinguish between canned and custom software.
- **Colorado:** The state's highest court issued taxpayer-favorable decisions in two cases concerning similar corporate income tax issues and held: (1) domestic corporations with no property and payroll (or minimal property or payroll) cannot be forced to be included in the Colorado combined group; and (2) that the state's IRC section 482-type statute cannot be used to include domestic holding companies in their combined groups.
- **New Jersey:** The Division of Taxation released guidance (Technical Bulletin TB-89) on combined reporting options as well as additional guidance on each of the filing methods, including confirming that groups filing on a water's-edge or worldwide basis will use the so-called *Joyce* apportionment method, while taxpayers making an affiliated group election will use the *Finnigan* method.
- **New York:** A state trial court affirmed a tribunal decision holding that a taxpayer was not entitled to deduct premiums paid to a captive insurance subsidiary in computing New York entire net income for the 2006 through 2009 tax years.
- **Ohio:** The Board of Tax Appeals issued a taxpayer-favorable decision in a case that focused on when the taxpayer's manufacturing process began. Under Ohio law, a sales and use tax exemption

exists for purchases made for use “primarily in a manufacturing operation to produce tangible personal property for sale.” It was concluded based on the facts in this case, the taxpayer was entitled to the exemption.

Read more at KPMG's [This Week in State Tax](#)

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