

TaxNewsFlash

United States



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KPMG reports: Kansas (sales tax, telecommunications provider); Utah (tax reform provisions repealed); Washington State (B&O surcharge delayed); multiple states (compact to limit incentives)

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.

- **Kansas:** A state appeals court determined that electricity consumed by a telecommunications provider to power HVAC units used to cool telecommunications transmission and switching equipment was exempt from sales tax. Kansas law provides an exemption for tangible personal property (including electricity) that is consumed in “the providing of services” for sale at retail. To be “consumed,” the property must be “essential or necessary to” and be used in the “actual process” of providing the service. Without the HVAC units serving their climate control function, the transmission and switching equipment could operate for only two hours before failing, making it impossible to generate a continuous and reliable telecommunications signal. As a result, the court concluded that the HVAC units were in fact “essential or necessary to” the taxpayer’s provision of telecommunications services and the electricity they consumed was exempt from tax. Read a [February 2020 report](#)
- **Utah:** The Utah governor has signed legislation repealing “tax reform” legislation that generally expanded the sales tax base to include certain services, increased the sales and use tax rate imposed on food and food ingredients, and reduced the individual and corporate income tax rate from 4.95% to 4.66%. The bill was enacted in December 2019, but because it was not passed with a two-thirds majority in each house, it was subject to a citizen’s referendum. Opponents of the measure were able to gather the required number of signatures to place a repeal measure on the November ballot. Almost immediately after the signatures were verified, the governor signed legislation that repealed the tax reform measure entirely. Therefore, all of the sales tax changes and income tax rate reduction are no longer pending. Read a [February 2020 report](#)

- **Washington State:** The Department of Revenue announced a delay in the implementation of a new surcharge, which was scheduled to apply to business activities occurring on or after January 1, 2020. Legislation enacted in 2019 adopted a new Business and Occupation (B&O) "tax workforce education surcharge," to fund education and was to apply to specified persons that are taxable under the services and other activities B&O classification. Bills currently pending in the Washington legislature would make certain changes to the surcharge provisions. As a result, the Department of Revenue indicated that the implementation will be delayed until further notice and the line for computing the surcharge will not appear on the January 2020 form. Read a [February 2020 report](#)
- **Multiple states:** Lawmakers in several states have proposed bills to establish an interstate compact aimed at limiting the use of tax and other incentives to encourage a particular company to relocate from one state to another. States entering into the compact would be prohibited from offering company-specific incentives or grants to entice a business with a facility in any other member state to relocate that facility to the offering member state. The proposed measure was introduced in Delaware, Florida, Hawaii, Illinois, Iowa, Maryland, New Hampshire, New York, and West Virginia. Read a [February 2020 report](#)

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