



# TaxNewsFlash

United States



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## KPMG reports: Arizona (mining); Colorado (vehicle-sharing service); Louisiana (passthrough entities); Massachusetts (software)

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.

- **Arizona:** A state appellate court rejected a taxpayer's argument that exemptions applicable to mining machinery and equipment extended to dyed diesel fuel used to power equipment used in mining or processing. The court acknowledged that although the diesel was vital to the mining operations, it was not equivalent to the machinery and equipment that it powered and did not function like items traditionally thought to be machinery or equipment. Further, the court observed that if the legislature had wanted to exempt dyed diesel fuel from the transaction privilege tax, it would have done so plainly. Read a [February 2020 report](#)
- **Colorado:** The Department of Revenue issued a private letter ruling to a taxpayer that was considering entering the vehicle-sharing or peer-to-peer car sharing business as a platform operator. The ruling explains that the company would be considered the lessor of the vehicles and would be required to collect and remit sales tax and the daily car rental fee. Read a [February 2020 report](#)
- **Louisiana:** The Department of Revenue issued guidance addressing the state's new elective passthrough entity tax. Effective for tax years beginning on or after January 1, 2019, Louisiana allows an S corporation or an entity taxed as a partnership for federal income tax purposes to elect to be taxed as if the entity had filed a federal income tax return as a C corporation. The guidance explains how and when passthrough entities make the election and clarifies that the act of electing entity level taxation will not, in and of itself, subject the electing entity to franchise tax liability. Read a [February 2020 report](#)
- **Massachusetts:** A state court affirmed an appellate tax board decision that a taxpayer's remotely accessed software products were taxable sales of prewritten computer software. A departmental

regulation extends the sales and use tax to transfers of rights to use software installed on a remote server. In the taxpayer's view, the regulation extending the sales tax to remotely accessed software was invalid as it went beyond the scope of the statute that specifically refers to transfers of software. The court agreed with the appellate tax board in determining that there had been a taxable "transfer" when customers purchased the right to use the taxpayer's software on a remote server. Read a [February 2020 report](#)

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