



# TaxNewsFlash

United States



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## KPMG reports: New York (sales tax, electricity); Texas (costs of goods sold); Utah (restaurant platforms)

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.

- **New York:** An appellate state court affirmed a decision of the tax appellate tribunal that a taxpayer (a telecommunications company) was not entitled to a refund of sales taxes paid on electricity used to power and deliver its telecommunications services because the taxpayer was not in the business of selling electricity. Read an [April 2020 report](#)
- **Texas:** The state's highest court issued opinions in three cases addressing whether taxpayers were entitled to deduct certain costs as costs of goods sold (COGS) in determining Texas franchise tax liability. In the first decision, a movie theater was not entitled to deduct its exhibition costs as COGS. In the second case concerning whether a taxpayer could subtract certain amounts paid to subcontractors in determining total revenues and also whether the taxpayer's COGS methodology was appropriate, the Texas Supreme Court held for the taxpayer finding that the payments qualified for the flow-through funds exclusion, but held that the taxpayer's method of computing COGS, which started with the federal calculation under IRC section 263A and adjusted for amounts expressly disallowed under Texas law, was "flawed." In the third case, the Texas Supreme Court affirmed an appellate court decision holding that a taxpayer in the business of renting and leasing construction equipment could not deduct the costs associated with delivery and pick-up of its equipment as COGS. Read an [April 2020 report](#)
- **Utah:** The governor signed legislation (Senate Bill 114) that makes changes regarding the sales and use tax treatment of lessons that are not taxable admissions and the definition of marketplace provider to exclude persons facilitating sales for restaurants. Read an [April 2020 report](#)

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