TaxNewsFlash

United States

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KPMG reports: Idaho (sale of LLC); Michigan (sourcing of services); Oregon (Portland "homeless" tax); South Carolina (sales tax on 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.

- **Idaho:** The state's Supreme Court held that gain from the sale of a majority-owned interest in a limited liability company (LLC) did not constitute business income. Under Idaho law, income is business income if it meets either the transactional test or the functional test, and there are two methods for the functional test. The first requires a finding that the intangible interest served as operational, rather than passive investment function. The second is the unitary business rule. The high court held that the interest in the LLC was a passive investment because the sale was not "an integral, functional, or operative component to the taxpayer's trade or business operations." The court next concluded that the taxpayer and the LLC were not unitary, although they were commonly controlled and the founder of the overall business had a presence within both of the entities. Read a **June 2020 report**

- **Michigan:** The state's Supreme Court, in addressing a City of Detroit-sourcing dispute, held that the sales factor sourcing rule for services under the uniform city income tax ordinance attributes service receipts to the location where services are performed—rather than where the services are received by customers. Therefore, legal services performed in Detroit for out-of-city clients were considered Detroit-sourced receipts. Read a **June 2020 report**

- **Oregon:** Voters in the Portland metro area approved a ballot measure that adopts a new tax to fund homeless services. Under this measure, a new 1% tax is to be imposed on married individuals with income over $200,000, and single filers with income over $125,000. A new 1% business profits tax is to be imposed on businesses with gross receipts over $5 million. Read a **June 2020 report**

- **South Carolina:** The Department of Revenue concluded that a taxpayer's cloud-based software was subject to sales tax. Further, sales of computer training services made in conjunction with the sale of the software were includable in the sales price of the software, and the entire amount was subject to tax. Training services sold on a stand-alone basis, however, were not subject to sales tax because training is not a specifically enumerated taxable service in South Carolina. Read a **June 2020 report**

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