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KPMG reports: Arizona (airport trip fees); Maryland (premium-receipts tax); New Jersey (cash grant 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.

- **Arizona:** The state's Supreme Court held that "trip fees" imposed by the City of Phoenix on providers of commercial ground transportation with regard to carrying passengers to and from the Phoenix airport did not violate a provision of the Arizona Constitution. Section 25 of the Arizona Constitution was amended in 2018 to prohibit the state or its political subdivisions from imposing or increasing any sales tax, transaction privilege tax or any other transaction-based tax or fee on services performed in Arizona. The state's high court ultimately concluded that the "trip fees" were not transaction-based fees, but were akin to "authorized-user fees" and that the trip fees were imposed on providers for using the airport property and having access to dedicated curbside space for pick-up and drop-off of passengers. Moreover, it was found that the trip fees were comparable to other user fees imposed in Arizona, such as highway tolls. Read an **August 2020 report**

- **Maryland:** The state's Tax Court held that an unauthorized insurance company subject to the Maryland premiums-receipt tax was exempt from corporate income tax on its non-premium income. Taxpayers subject to the Maryland premiums tax are exempt from all other state taxes. During the tax years at issue, the taxpayer did not earn any insurance premiums, but earned interest income from its parent corporation. The Maryland Tax Court however rejected the Comptroller's argument that because the taxpayer did not earn any premiums during the tax years at issue, the exemption from all other state taxes was inapplicable. Read an **August 2020 report**

- **New Jersey:** The U.S. Court of Appeals for the Third Circuit reversed the U.S. Tax Court, and held that a company's receipt of economic incentives from the state of New Jersey was taxable and was not excluded from the taxpayer's gross income as contributions to capital. The state of New Jersey offered an economic incentive program that provided cash grants to companies willing to relocate to or expand in New Jersey. The tax years at issue were prior to enactment of the 2017

U.S. tax law (Pub. L. No. 115-97) ("Tax Cuts and Jobs Act") that modified IRC section 118 to require certain government contributions to corporations be included in gross income. The federal appeals court concluded that unrestricted government payments, such as the incentives at issue, indicated an intent to provide a company with additional income rather than a contribution to capital and thus were taxable to the company. Read an **August 2020 report**

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