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KPMG reports: Georgia (sales tax refund, computers); Minnesota (sale of subsidiary); Missouri (sales tax, amusement); North Carolina (bankruptcy)

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.

- **Georgia:** The state's tax tribunal held that a telecommunications company was entitled to a refund of sales and use taxes paid on purchases of telecommunications equipment. Under Georgia law, an exemption from sales and use tax applies to the sale or lease of computer equipment to any high-technology company. The Department of Revenue had denied the refund on the basis that the equipment at issue was telephone central office equipment or other voice data transport technology specifically excluded from the scope of the exemption. The tax tribunal, however, determined that deference to the Department's interpretation of the term computer equipment was not warranted and that the majority of the unique assets for which refunds were sought were computers. Further, the tribunal concluded that the equipment was not telephone central office equipment or other voice data transport technology specifically excluded from the scope of the exemption. Read an **August 2020 report**

- **Minnesota:** The state's Supreme Court held that the gain from the sale of a majority interest in a unitary business was business income subject to Minnesota tax. The taxpayer sold a majority interest in a subsidiary that operated an internet-based business throughout the United States, and then treated the gain from the sale as income that was not subject to Minnesota tax. The Minnesota Supreme Court rejected the taxpayer's arguments that the state did not have sufficient connection with the sale and concluded that the gain constituted nonbusiness income. Read an **August 2020 report**

- **Missouri:** The administrative hearing commission ruled that amounts charged by the taxpayer for taking customers on fly fishing trips were not subject to sales and use tax. The Department of Revenue asserted the taxpayer's guided fishing trips were subject to sales and use tax because the taxpayer was operating a "place of amusement, entertainment or recreation." The commission, relying on earlier cases, disagreed and noted that the taxpayer did not control the lakes—the purported place of amusement—and that customers did not pay a fee for access to the Missouri lakes, but were free to fish at any time without paying a fee. The taxpayer's charges were found to provide customers with an enhanced fly fishing experience, but were not an indispensable part of fly fishing. Read an **August 2020 report**

- **North Carolina:** A federal bankruptcy court held that to the extent North Carolina's passthrough entity withholding statute purports to impose a tax obligation against a debtor limited liability company (LLC) for income taxes imposed on nonresident owners of the LLC, it was preempted by the Internal Revenue Code and federal bankruptcy law. Read an **August 2020 report**