



# TaxNewsFlash

United States



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## KPMG reports: California (wireless service); Massachusetts (sales tax remittances); Massachusetts (non-resident S corporation); Nebraska (GILTI and FDII)

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.

- **California:** A state trial court issued an order barring the Department of Tax and Fee Administration from enforcing a sales tax regulation regarding “bundled sales” of mobile devices and wireless telecommunications service. Under Regulation 1585, the provider-retailer was required to calculate and pay sales tax on the **unbundled** price of the mobile device (that is, the price that a consumer would pay for purchasing the mobile device separately). However, the petitioners in the class action suit contended that, under California law, sales tax is based on the consideration actually charged by the provider-retailers for mobile devices. The trial court agreed and held that the regulation was arbitrary and capricious to the extent it required sales tax to be based on the price of an unbundled mobile device. Read a [November 2020 report](#)
- **Massachusetts:** House and Senate versions of an appropriations bill would require accelerated sales tax remittances by certain vendors. Specifically, vendors with sales tax liability of more than \$150,000 in the preceding calendar year would be required to remit sales tax collected on any taxable sale made on or before the 21<sup>st</sup> day of the filing period, by the 25<sup>th</sup> day of that period. Different versions of the bill have been passed, and those differences would need to be reconciled in conference committee. Read a [November 2020 report](#)
- **Massachusetts:** The Appellate Tax Board recently upheld the imposition of tax on capital gain realized by a non-resident S corporation from the sale of an interest in a Massachusetts limited liability corporation (LLC). The taxpayer argued, among other items, that the gain from the sale of

the LLC (which was not unitary with the taxpayer) lacked the requisite minimum connection to Massachusetts, but the Board rejected this argument. Read a [November 2020 report](#)

- **Nebraska:** The Department of Revenue previously issued a general information letter addressing the state tax treatment of GILTI and FDII.\* Almost a year later, the Department issued a revised letter that confirms that: (1) GILTI is included in Nebraska income; (2) the IRC section 250 deductions for GILTI and FDII are allowed; and (3) GILTI is not eligible for the state's foreign dividend subtraction. The revised letter clarifies that IRC section 78 dividends attributed to GILTI are eligible for the foreign dividend exclusion and amends the prior guidance as to how GILTI is to be included in the apportionment factor. Read a [November 2020 report](#)

\*GILTI (global intangible low-taxed income) and FDII (foreign-derived intangible income" (FDII))

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