



TaxNewsFlash

United States



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KPMG reports: Arizona (transaction privilege tax, license renewals); California (property tax, transfers between legal entities); Indiana (software, sales tax); New York (taxable storage services)

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 due date for renewing transaction privilege tax licenses for all taxpayers whose activities are subject to the tax is January 1, 2021. Failure to renew licenses in a timely manner may result in penalties and/or late fees. Read a [December 2020 report](#)
- **California:** A state appeals court held that a reassessment for property tax purposes was triggered by a transfer of real property between legal entities. The taxpayer (a revocable trust) owned all the voting stock in a corporation. The trust and several individuals also owned non-voting stock in the corporation. In the transaction at issue, the corporation transferred real property to the trust. The trust's beneficiaries did not include the persons who owned the non-voting stock. The question was whether the real property that was transferred could be reassessed to fair market value, and resolution of this issue depended on whether the term "stock" (as used in a statutory exception from triggering a change in ownership) refers to only voting stock or to all classes of stock. As the court observed, if the definition of stock referred to all stock, then there would be a change in ownership, and thus a reassessment, because the individuals who owned non-voting stock before the transfer to the trust did not own any stock in the corporation after the transfer. The appeals court ultimately rejected the trust's arguments that the term "stock" in the statute meant only "voting stock" and therefore concluded that a change in ownership had occurred. Read a [December 2020 report](#)
- **Indiana:** The Department of Revenue in a "memorandum of decision" held that certain purchases of software and payments for access to software were exempt from sales tax. In the

memorandum, the Department set out the history of the rules that applied regarding the tax treatment of software as a service for periods prior to July 1, 2018, at which time a specific exemption for remotely accessed software became effective. A sales tax bulletin had previously provided that for the period from November 2011 to December 2016, remotely accessed software was subject to sales tax regardless of whether the software constituted a service or whether the software user had an ownership interest in the software. However, beginning from December 2016, remotely accessed software may be subject to sales tax if the circumstances specifically point to a degree of "constructive" ownership of the software. The revised bulletin listed a number of factors to consider when determining whether constructive ownership was transferred to the user. Read a [December 2020 report](#)

- **New York State:** The Department of Taxation and Finance determined that per-minute charges for access to secure, climate-controlled doghouses were subject to New York sales tax because dog owners were "storing" their dogs (tangible personal property) in the doghouse units. The Department further determined that membership fees were taxable because they were effectively a prepayment for access to taxable storage services. Read a [December 2020 report](#)

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