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KPMG reports: Louisiana (apportionment); Maryland (extended deadlines); Missouri (sales tax on rentals); Nevada (tax amnesty); Oregon (sales factor)

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.

- **Louisiana:** A state appeals court held that gain from the sale of an LLC (limited liability company) doing business in Louisiana (and that was apportionable income) was included in the taxpayer's sales factor denominator for the tax year at issue. Under Louisiana law that was applicable for the tax year under review, the denominator included total net sales made in the regular course of business and the taxpayer's other gross apportionable income. A regulation provided that sales that were not in the regular course of business were excluded from the factor. The taxpayer argued that the regulation exceeded the scope of the statute and was therefore unenforceable. The court ultimately agreed with the taxpayer—based largely on statutory construction and legislative intent—and held that the gain was properly included in the sales factor denominator. Read a **January 2021 report**

- **Maryland:** The state comptroller announced that because of the ongoing COVID-19-related state of emergency, the due dates for filing returns and making payments of certain taxes (including corporate income taxes and sales and use taxes) have been extended. In general, the deferral extends the deadline for returns and payments for included taxes that would be due in January, February, and March 2021 until April 15, 2021. These extensions are available to all taxpayers. Read a **January 2021 report**

- **Missouri:** The state's high court rejected a taxpayer's position that it was delivering a service when it provided portable toilets to customers. In the court's view, the taxpayer held itself out to be a portable toilet rental business, and without providing the toilets, the taxpayer had no service to provide. The court also rejected the taxpayer's argument that the "true object" test applied to determine whether the transactions were taxable. The court explained that this test was not applicable when the item of tangible personal property being transferred had value on its own. As such, the high court affirmed an administrative hearing decision that the taxpayer owed sales tax on its portable toilet rentals. Read a **January 2021 report**

- **Nevada:** The Department of Taxation announced that a tax amnesty program will begin on February 1, 2021, and run through May 1, 2021. Under the program, a business will be relieved of all penalties and/or interest imposed with regard to unpaid taxes, fees or assessments that were due and payable on or before June 30, 2020. Read a **January 2021 report**

- **Oregon:** The state tax court addressed whether a taxpayer properly included in its sales factor denominator dividends and subpart F income that remained in the tax base after applying the state's dividends-received deduction. The taxpayer had subtracted 80% of its foreign dividends and subpart F income in computing its Oregon tax base. The taxpayer also excluded 80% of these amounts from the sales factor. The non-subtracted 20% was included in the sales factor denominator but was not included in the Oregon numerator. On audit, the Department of Revenue rejected this treatment. The court also rejected the taxpayer's argument that the statute requiring an exclusion for 80% of the subpart F income and dividends necessarily meant that the remaining 20% was included in the factor. However, the court rejected the Department's arguments that an exclusion from the definition of "sales" for certain types of gross receipts applied to exclude the subpart F income. In the court's view, subpart F income was not a gross receipt. The court, however, could not grant summary judgement as to whether this exclusion from the definition of "sales" applied to the dividend income. Read a **January 2021 report**