



TaxNewsFlash

United States



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KPMG reports: Alaska (refund claim); Minnesota (audit notice delivery); New Jersey (combined group); Tennessee (marketplace facilitator)

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.

- **Alaska:** An administrative law judge in a case concerning whether the filing of an amended federal return extends the statute of limitations for filing a refund claim for state tax purposes, held that the refund claim was untimely under the three-year statute of limitations. The taxpayer asserted that the authority governing the issue was a state statute that requires a taxpayer to notify the Department of any alteration or modification of the taxpayer's federal income tax return within a 60-day period of the final determination. This contention was rejected. Read a [January 2021 report](#)
- **Minnesota:** The state's high court held that a tax order sent by regular mail (non-certified mail) satisfied the "due process" requirements. In this case, the taxpayer missed the Commissioner's audit notice and subsequent assessment, and only became aware of the outstanding tax lien when the Department levied his bank account. The taxpayer's position was that the Department was obliged to mail the tax order via certified mail, and cited earlier decisions holding that certified mail was sufficient for due process. The Minnesota Supreme Court, however, determined that although there were decisions holding that certified mail was sufficient, that did not mean that a notice sent by certified mail was required. In this case, there was no evidence that the state had actual knowledge that the initial notice did not reach the taxpayer, and the taxpayer provided no evidence that regular mail was not "reasonably calculated" to reach the address and person to which it was sent. Read a [January 2021 report](#)
- **New Jersey:** The Division of Taxation issued guidance (Technical Bulletin 89) explaining that because of a recent retroactive law change to the definition of an "affiliated group," there would be a one-time exception to allow a change to the combined group's filing methods

prospectively for the 2020 corporation business tax return. No retroactive changes, however, will be allowed with respect to elections made for the 2019 privilege periods (in other words, no amended returns changing a filing election or reverting to the default water's-edge filing methods will be permitted). Read a [January 2021 report](#)

- **Tennessee:** The Department of Revenue issued a ruling interpreting the state's relatively new marketplace facilitator statute. In the ruling, the Department concluded that a taxpayer that facilitated sales for restaurants was considered a "delivery network company" excluded from the statutory definition of a marketplace facilitator. Read a [January 2021 report](#)

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