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# TaxNewsFlash

**United States**

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# KPMG reports: Alabama (composite returns); Massachusetts (pandemic telecommuting); Virginia (combined reporting); Multistate (repeal of taxes)

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.

- **Alabama:** A state appellate court in a case concerning a limited liability company (LLC) challenge to the state's mandatory composite income tax return requirement (because, as the taxpayer asserted, it applied only to passthrough entities with nonresident members) rejected the taxpayer's claim. The court held that the composite return measure served as a withholding mechanism and that ultimately the final amounts paid by residents and nonresidents for their distributive shares of a passthrough entity's taxable income were equal, despite the distinction in the manner of their collection. Read a **March 2021 report**

- **Massachusetts:** A final regulation provides that if a nonresident was an employee engaged in performing services in Massachusetts immediately prior to the Massachusetts coronavirus (COVID-19) pandemic state of emergency, but that the nonresident subsequently performed these services from a location outside Massachusetts because of pandemic-related circumstance, the compensation paid to the employee will continue to be treated as Massachusetts source income subject to Massachusetts individual (personal) income tax and withholding. The final regulation also provides an employer of a Massachusetts resident is not required to withhold Massachusetts income tax to the extent the employer continues to be required to withhold income tax in another state. Read a **March 2021 report**

  **KPMG observation**
  New Hampshire has filed a bill of complaint with the U.S. Supreme Court arguing that the Massachusetts regulation impedes New Hampshire's sovereign right to control its own tax and economic policies and violates the due process and commerce clauses. If the Supreme Court were decide to hear this case, it could have implications for other states—such as New York that

applies so-called "convenience of the employer rules" whereby New York nonresidents working from home during COVID-19 continue to be subject to New York tax on their wages.

- **Virginia:** The House and Senate agreed to the budget bill that includes a provision to require corporate taxpayers to file reports disclosing what their tax liability would have been if unitary combined reporting had been effective for the 2019 tax year. These reports would be due by June 1, 2021, and a $10,000 penalty would apply for failing to file or filing a report that contained omissions or misstatements. Read a **March 2021 report**

- **Multistate:** Certain state legislatures this year are advancing legislation that would repeal certain state taxes. For instance:

    - **Mississippi:** House Bill 1439 would phase-out the individual income tax over a number of years by incrementally increasing the individual exemption. To offset the revenue loss, the measure would increase the state's current general sales and use tax rate from 7.0% to 9.5% and would increase the tax rates applicable to manufacturing equipment, aircraft and vehicles, and other types of business inputs. The sales and use tax rate applied to food for human consumption would be reduced over time from 7.0% to 3.5%. The corporate income tax would remain in effect. The bill has passed the House and is pending in the Senate.

    - **Oklahoma:** House Bill 2083 would phase-out the 6.0% corporate income tax by allowing a deduction for a certain percentage of total taxable income each year, beginning with 20% for the 2022 tax year. Proponents of the measure assert the measure is needed to make Oklahoma a competitive jurisdiction for tax purposes. The bill was approved by the House on March 11, 2021.

    - **West Virginia:** The governor requested that the legislature consider measures that would make significant reforms to the state's overall tax structure.

        - The proposals would reduce by 60% the rates applied to "nonbusiness personal income" (wages, salaries, unemployment compensation and certain retirement income).

        - The tax rates as applied to interest, dividends, and business individual income would remain unchanged.

        - The consumer's sales and service tax rate would be increased from 6.0% to 7.9%, and the sales tax base would be expanded to include new products and services.

        - Specific sales tax exemptions currently in place would be repealed, including exemptions that apply to certain sales of computer software and hardware, data processing services, and digital advertising as well as certain forms of traditional newspaper, television, and billboard advertising.

        - Certain professional services, such as legal and accounting services, would be subject to tax.

        - A new excise tax would be imposed on certain luxury items costing over $5,000, and this tax would be in addition to the sales and use tax. Marketplace facilitators, as well as retailers, would be required to collect and remit the luxury tax.

- The taxes on cigarettes, alcoholic beverages, and soft drinks would be increased, and the severance tax regime that applies to coal and other natural resources would be revised. Most of the changes would take effect on January 1, 2022.

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