TaxNewsFlash

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KPMG report: State and local tax, technology-related guidance (table, first quarter 2021)

A report of U.S. state and local tax developments concerning technology-related tax issues, for the first quarter of 2021, provides updates in table format and covers topics such as the taxability of software, guidance on digital equivalents, and other items.

Read the **KPMG report** [PDF 101 KB] of state and local technology-related tax developments for the first quarter of 2021.

Highlights

- **Colorado:** The Department of Revenue addressed the taxability of on-demand content that was provided through remote servers. Customers could purchase on-demand content, watch live television and other content on their phones or computers, store content on a cloud DVR, and download content to a mobile device for offline viewing. The Department noted that the vast majority of content, if it is not simply delivered via fiber optic or coaxial cable, was stored on servers that are remote from customers, and customers do not receive a full, finished copy of the purchased content. The Department found that while the content delivered by the taxpayer constituted tangible personal property, it included a service component, resulting in a "mixed transaction" that was more analogous to a service. Thus, the taxpayer's charges were not subject to sales tax.

- **Maryland:** The legislature voted to override the governor's veto of HB 732 and HB 932, which were passed last year. HB 732 imposes a new tax on the gross revenues of a person derived from digital advertising services in Maryland, and HB 932 redefines the term "retail sale" to include the sale of certain digital products.

- **Chicago, Illinois:** The Chicago Department of Finance issued a bulletin establishing safe harbor revenue thresholds for the city's amusement tax and personal property lease transaction tax (PPLTT). The safe harbor—intended to relieve compliance burdens and give certainty with respect to nexus for the amusement tax and the PPLTT—is available beginning July 1, 2021, to out-of-state entities that received less than $100,000 in revenue from Chicago customers during the most recent consecutive four calendar quarters.

- **New York State:** The Division of Tax Appeals held that a taxpayer's IT security services were a "taxable protective service." The taxpayer's services included managing and monitoring firewalls, providing various types of IT threat detection and analyses, offering a threat intelligence service to educate customers about the likelihood of their organization being breached, and providing employees to work on-site at customers' offices and evaluate IT threats as they arise. The Division of Tax Appeals held that that both the managing and monitoring elements of many of the taxpayer's services were protective services.