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KPMG reports: California (market-based sourcing); California (PPP conformity); Hawaii and Indiana (federal tax conformity); Maine (NOL carryforward)

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.

- **California:** A regulatory project to revise California’s market-based sourcing regulation continues. There is uncertainty as to what tax years the revised regulation (once finalized) would apply. The Franchise Tax Board announced that 2020 tax returns are not required to be prepared in accordance with the proposed changes to the market-based sourcing regulation. Read a **May 2021 report**

- **California:** Recent legislation partially conforms California’s tax treatment to the federal tax treatment of Paycheck Protection Program (PPP) loans. Thus, while forgiven PPP loans will not be included in income, “ineligible entities”—that is, certain publicly traded companies and companies that did not experience at least a 25% reduction in gross receipts—will not be allowed to deduct expenses paid with forgiven loan amounts. Read a **May 2021 report**

- **Hawaii:** Pending legislation adopts changes to the Internal Revenue Code (IRC) as of December 31, 2020, applicable to tax years beginning after December 31, 2020. Also, Hawaii is to exclude forgiven PPP loan amounts from gross income, but does not adopt a provision of *Consolidated Appropriations Act, 2021* (Pub. L. No. 116-260) that allows deductions for expenses paid for with forgiven loan amounts. Read a **May 2021 report**

- **Indiana:** House Bill 1001 adopts changes made to the IRC as of March 31, 2021, applicable retroactively to January 1, 2021. Previously, Indiana conformed to the IRC as of January 1, 2020. Under Indiana law, any change to the IRC prior to March 31, 2021, that affects the computation of adjusted taxable income or corporate taxable income, as well as the income of certain insurance companies and trusts and estates, applies to the same tax year for Indiana purposes as it does for federal purposes. The bill specifically decouples from certain provisions of the IRC—most of which affect individuals. However, corporations are required to add back the amount by which business meals deductions exceed 50%. Additionally, the Department of Revenue recently released comprehensive guidance addressing the conformity update, which clarifies (among other items) that Indiana now adopts the federal treatment of qualified improvement property and has conformed to the federal treatment of PPP loans. Read a **May 2021 report**

- **Maine:** The state's Supreme Court denied a taxpayer's claim that a "hypothetical" federal net operating loss (NOL) could be carried forward as a deduction against a unitary group's state income tax liability. At the federal level, there was no actual loss because the unitary loss was offset by nonunitary income—income derived from outside the group's unitary business. The taxpayer asserted that disallowance of the hypothetical NOL deduction was unconstitutional, but the high court disagreed. Read a **May 2021 report**

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