



TaxNewsFlash

United States



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KPMG reports: New Jersey (royalty payments); Ohio (local billboard tax); Pennsylvania (remote supply services); Washington State (heavy equipment rental tax)

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.

- **New Jersey:** The Superior Court of New Jersey, Appellate Division, issued what is the most recent decision in ongoing litigation concerning the deductibility of royalty payments made to a related party. When it audited the taxpayer, the Division of Taxation allowed a deduction only for the royalty payments on which the recipient/subsidiary had paid tax. In 2019, the New Jersey Tax Court rejected the Division's position and held that the taxpayer was entitled to a full deduction under the "unreasonable exception." However, the Appellate Division recently reversed, concluding that there was nothing unreasonable about allowing an exception only to the extent the related party paid New Jersey corporation business tax on the royalty income. In the appeals court's view, "this was a balanced approach" that considered the need to close loopholes as well as avoid an unreasonable addback. Read a [September 2021 report](#)
- **Ohio:** The Supreme Court of Ohio held that Cincinnati's local tax on "outdoor advertising signs" violated the First Amendment. In the high court's view, the tax was structured in a way that burdened activities protected by the First Amendment and created a potential tool for censorship, and thus determined that the tax did not meet the strict scrutiny standard and was unconstitutional. Read a [September 2021 report](#)

- **Pennsylvania:** The Department of Revenue issued a sales tax bulletin addressing the taxability of remote-help supply services, which are subject to Pennsylvania sales and use tax. The Department clarified that to determine if the tax applies, the taxpayer must look to where the **delivery or use** of the service occurs. The status of the person, whether remote or in person, is not determinative, and if the delivery or use of the service occurs within Pennsylvania, the services will be subject to the sales and use tax. Read a [September 2021 report](#)
- **Washington State:** The Department of Revenue issued a special notice addressing the state's new heavy equipment rental tax. Effective January 1, 2022, dealers will be required to charge their customers a heavy equipment rental tax of 1.25% on rentals of equipment made from a retail location in Washington. The place of taxation will be the location where the equipment is picked up by or delivered to the customer. This new tax is administered much like the retail sales tax and is imposed in addition to the state and local sales tax. Read a [September 2021 report](#)

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