

In The News

Akerman Partners Question Quiet Expansion of SCOTUS' *Wayfair* Ruling in *Tax Notes*

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Tax Practice Group Co-Chair [David Blum](#) and tax partners [Lauren Ferrante](#) in Chicago and [Stefi George](#) in New York co-authored an article in *Tax Notes State* arguing that the Illinois Department of Revenue's recent expansion of marketplace facilitator rules to peer-to-peer car sharing platforms is yet another example of a state tax agency stealthily applying the *Wayfair* doctrine without legislative consent.

“Almost five years out, we know that the U.S. Supreme Court’s ruling in *Wayfair* prompted almost every state to not only enact legislation requiring out-of-state sellers to collect sales or use tax on sales for delivery into the state,” the authors wrote, “but likewise require the same of out-of-state marketplace facilitators regarding their own sales and those sales they facilitate on behalf of third-party sellers...”.

“This fall, however, the Illinois Department of Revenue (DOR) went a step further, stealthily expanding the marketplace facilitator approach to the Automobile Renting Occupation and Use Tax Act (ART). Under this new guidance, set forth in a DOR publication, peer-to-peer car sharing platforms must collect and remit ART on car sharing transactions facilitated through their platforms...”.

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“The *Wayfair* creep is troubling. In this instance, it occurred without any action by the legislature (and in the face of a veto of legislation on this very issue), raising significant concerns regarding sound tax administration and sufficient taxpayer notice.”

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