

## In The News

# Akerman Partner David Blum Quoted in *Law360* about MTC's Questionable Position on Computer Cookie Nexus

January 17, 2023

The Massachusetts Supreme Court last month upheld the state Appellate Tax Board's finding that computer cookies (implanted information-gathering code) do not establish a physical presence in the state that could require a California-based company to collect and remit Massachusetts taxes. The court's reasoning could throw cold water on the Multistate Tax Commission's position that certain activities may render an out-of-state company liable for income taxes.

*Law360* quoted Tax Practice Group Co-Chair David Blum: "...[Blum] said that while he has 'tremendous respect' for the MTC and its desire to 'get it right' for state tax administrators, he has questioned its stance on cookies exceeding P.L. 86-272 protections since the new guidance was adopted. He said cookies are 'literally mere electrons' and that the MTC was 'taking a sophomoric view of what cookies are and where they actually exist.'"

"To the notion that the electrons, even if they were sitting in a state, would be sufficient, eviscerates the intent of P.L. 86-272, which was to protect businesses from tax even if they had people who were actually in the state selling face-to-face,' Blum said."

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