

In The News

# Stefi N. George Quoted in *Bloomberg Tax* on New York Income Tax Decision Affecting Online Retailers

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Chair of Akerman’s State and Local Tax Practice [Stefi N. George](#) was quoted in the *Bloomberg Tax* article “NY Income Tax Ruling Leaves Door Open for Online Seller Lawsuits,” analyzing a New York appellate decision upholding the state’s expanded income tax obligations on out-of-state online retailers.

On May 7, the New York Supreme Court, Appellate Division, Third Department, ruled that the Department of Taxation and Finance’s regulation expanding the reach of its business corporation franchise tax is not preempted by P.L. 86-272, a federal law that prohibits states from imposing income taxes on out-of-state businesses that only solicit sales of tangible personal property in the state. New York’s regulation adopted the Multistate Tax Commission’s P.L. 86-272 statement broadening the range of out-of-state businesses that may be taxed based on customers’ interactions with their websites or apps.

Commenting on the ruling, Stefi said, “The decision leaves open a few pivotal questions, such as where the line should be drawn between internet-based solicitation and business activities, and whether the Department can effectively apply the regulations to specific corporations without running afoul of PL 86-272.”

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Stefi noted the court was careful to leave the door open to as-applied challenges to the rule, meaning businesses can still challenge tax assessments for which the department employed the regulation. The case is one of several the American Catalog Mailers Association has brought against states that have followed the Multistate Tax Commission.

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