

In The News

Michael Bowen's *Law360* Bylined Article Examines Fate of Clause as Case Heads to U.S. Supreme Court

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Law360 featured Michael Bowen's article "Kaestner Trust May Pick Up Where Wayfair Left Off." Bowen examines *The Kimberley Rice Kaestner 1992 Family Trust v. North Carolina Department of Revenue*, which the U.S. Supreme Court has agreed to hear in April 2019. The case centers around whether the due process clause prohibits states from taxing trusts based on the beneficiaries' in-state residency. The Kaestner Trust argued before the North Carolina Supreme Court that N.C.G.S. Section 105-160.2 was unconstitutional, and the Court would rule in favor of the taxpayer.

Bower, chair of Akerman's State and Local Tax Practice, explains, "In the wake of *Wayfair*, the court's decision in *Kaestner Trust* could have wide-ranging significance. For example, consider the all-too-common use of limited liability companies to conduct multistate business operations. States routinely argue that the benefits and protections afforded the limited liability companies accrue to the benefit of the members thereby satisfying the due process clause. If the core holding of the lower court is upheld, however, the door may be open for innumerable due process clause challenges to state tax laws."

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