

Contact

Houston

1200 Smith Street, Suite 1400
Houston, Texas 77002-4310
Tel: 713.658.1818
Fax: 713.658.2553

Atlanta

191 Peachtree Street, N.E.,
Forty-Sixth Floor
Atlanta, Georgia 30303
Tel: 404.659.1410
Fax: 404.659.1852

Philadelphia

50 South 16th Street, Suite
1700
Philadelphia, PA 19102
Tel: 610.772.2300
Fax: 610.772.2305

San Antonio

112 East Pecan Street, Suite
1450
San Antonio, Texas 78205
Tel: 210.253.8383
Fax: 210.253.8384

“Panel Highlights Concerns with MTC Guidance on P.L. 86-272” – Tax Notes

Jennifer Karpchuk’s recent panel presentation quoted in the article, “Panel Highlights Concerns With MTC Guidance on P.L. 86-272”

March 15, 2023

In a March 16 Tax Notes article highlighting the 2023 American Bar Association/Institute for Professionals in Taxation Advanced State Income Tax Seminar in New Orleans, Philadelphia-based State and Local Tax (S.A.L.T.) Practice Co-Chair Jennifer Karpchuk provides insight from a panel discussion on the Multistate Tax Commission’s revised guidelines on P.L. 86-272.

The panelists noted that these guidelines have businesses questioning the taxability of activities conducted over the internet and whether or how states will adopt the guidelines.

The article mentions that “panelists discussed that while businesses’ use of the internet continues to evolve and becomes more complex, it has led to confusion over what taxes are due and where – and is further complicated when states attempt to adopt the MTC’s position on P.L. 86-272 on audit rather than through rulemaking procedures.”

“With each of these revisions, I think all of us up here would say they have tried to further limit the applicability and the scope of the federal law’s protections,” explained Karpchuk.

According to Karpchuk, the Supreme Court’s 2018 decision in *South Dakota v. Wayfair Inc.* prompted the MTC to attempt to harmonize the language in *Wayfair* regarding nexus and internet activities with P.L. 86-272 “and how the world has changed since 1959.” The panel further explained that the updated guidance provides a list of activities that the MTC believes are no longer protected under the statute and specifically addresses internet activities.

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o learn more, subscribers may view the full article here.