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How Vulnerable Is Your State to Post-‘Wayfair’ Lawsuits?

Bloomberg BNA

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In an article published on September 4, 2018 in Bloomberg BNA, Jennifer Weidler Karpchuk discusses how states could be opening themselves up to further lawsuits if they do not follow the new suggestions given by Justice Kennedy after the landmark Wayfair ruling in June. Karpchuk explains, “Wayfair was decided based upon the specific facts of that case – large online retailers with substantial presence in a state that was a member of the Streamlined Sales and Use Tax Agreement, and a statute that provided for minimum thresholds and explicitly stated non-retroactive application of the law.”

The article highlights which states are the most vulnerable and need to proceed with caution moving forward. Karpchuk also adds that the most important suggestion for small online businesses is SSUTA membership. “There is no doubt that the companies most affected by the decision in Wayfair were not the “Wayfairs” of the world, but the small mom-and-pop online retailers. A state’s membership in SSUTA guarantees those small businesses some help and relief; namely simplification of the vast and varied states’ sales and use tax administration systems and free software to aid with compliance.”