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States Could Tax Online Sales Retroactively, Legally Speaking

Bloomberg BNA

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In an article published on September 7, 2018 in Bloomberg BNA, Jennifer Weidler Karpchuk discusses the threat of retroactivity stemming from the *Wayfair* decision. Twenty five states have enacted economic nexus laws since the court ruled in *Wayfair*, and seven other states are considering enacting laws. Each of the 25 states have enacted their laws well before the implementation date.

However, states can potentially require remote retailers to collect back to the law's enacted date, versus the implementation date. Karpchuk says, "I would definitely call that retroactive application. If states decide to try this approach, I would expect it to be met with legal challenges on constitutional grounds."