

## Income/Franchise:

### Wisconsin: Appellate Court Agrees that P.L. 86-272 Only Protects Sales of TPP, Not Services or Intangibles

*Appeal No. 2023AP1251*, Wis. Ct. App. (6/3/25). In a recently posted unpublished opinion, a Wisconsin Court of Appeals (Court) agreed with the Wisconsin Tax Appeals Commission's 2022 ruling [see *State Tax Matters*, Issue 2022-24, for more details on the 2022 ruling] that an out-of-state corporation selling travel services to Wisconsin residents through at least 100 in-state independent consultants was subject to Wisconsin corporate franchise tax for the tax years at issue, because among other reasons, such in-state service activity was *not* protected by P.L. 86-272 despite the taxpayer's assertion otherwise. In doing so, the Court explained that it will not extend P.L. 86-272 protections to activities other than the solicitation of sales of tangible personal property "as expressly and clearly provided in the law itself." Responding to an alternate argument asserted by the taxpayer, the Court also explained that while some language in related caselaw describes P.L. 86-272 as setting a "lower limit," it failed to see how such language creates "a line in the sand" where a set of unspecified activities is "somehow considered less than the solicitation of sales of tangible personal property" that cannot be taxed – concluding that nothing in such caselaw extends P.L. 86-272's application beyond tangible personal property. In this respect, the Court reiterated that P.L. 86-272 "applies only to tangible personal property, and anything other than tangible personal property, *e.g.*, intangible property and services, are not protected" by it. Please contact us with any questions.

**URL:** <https://www.wicourts.gov/ca/opinion/DisplayDocument.pdf?content=pdf&seqNo=963127>

**URL:** [https://dhub.deloitte.com/Newsletters/Tax/2022/STM/220617\\_5.html](https://dhub.deloitte.com/Newsletters/Tax/2022/STM/220617_5.html)

— Scott Bender (Milwaukee)  
Principal  
Deloitte Tax LLP  
[sbender@deloitte.com](mailto:sbender@deloitte.com)

Michael Gordon (Milwaukee)  
Managing Director  
Deloitte Tax LLP  
[michagordon@deloitte.com](mailto:michagordon@deloitte.com)

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