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Another Taxpayer Victory on Due Process Grounds—Consolidated Filing and Use of Trademarks Are Not Enough to Constitutionally Create Franchise Tax Nexus

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AUTHORED ARTICLE | May-June 2013

Journal of State Taxation

Laura Kulwicki, an attorney in the Vorys Akron office and a member of the probate and tax group, authored an article titled "Another Taxpayer Victory on Due Process Grounds—Consolidated Filing and Use of Trademarks Are Not Enough to Constitutionally Create Franchise Tax Nexus" for the May-June 2013 edition of the *Journal of State Taxation*.

The article states: "A federal bankruptcy court in Delaware recently provided another nontraditional vehicle for addressing constitutional challenges to state taxation. In *In re: Washington Mutual, Inc.*, Judge Mary Walrath of the United States Bankruptcy Court for the District of Delaware sustained an objection to a claim filed by the Oregon Department of Revenue for corporate excise taxes, interest, and penalty, holding that the Due Process Clause and Commerce Clause prohibited enforcement of Oregon's claim. The case is another noteworthy example of what is quickly becoming a taxpayer 'winning streak' in due process challenges to state taxation."