

**Patuxent Consulting Group, Inc.**

1100 H Street, NW  
Suite 1200  
Washington, DC 20005  
Ph: 202-349-7019  
Fx: 202-783-0575

May 9, 2007

**TO: Joe Huddleston,  
Executive Director  
Multistate Tax Commission**

**FROM: James C. Rosapepe  
Leonard L. Lucchi  
Carolyn M. Brenner**

**RE: Federal Legislative Activities –  
Report to the Executive Committee**

With all of the committee, subcommittee and leadership changes in the 110<sup>th</sup> Congress, state tax issues were a little slow to germinate so far this year. There are, however, important developments in the following areas:

- **Legislative Hearing on Hotel Intermediaries Issue** – The MTC has taken the lead in working with the hotel intermediaries industry (Expedia, Travelocity, etc.) on uniformity language to define which portion of a hotel/motel bill is subject to state sales or use tax. Proposals have been exchanged and discussions have been held. Nonetheless, the industry has gone to Congress for relief. Later this month, the Senate Commerce Committee will hold a hearing on the subject of possible federal preemption of state taxation of hotel room stays. Although no legislation has been filed yet, the full committee is interested in hearing arguments from both perspectives.
- **Permanent Internet Tax Freedom Act of 2007** – Earlier this year, three bills were introduced to make the moratorium on internet charges, now scheduled for on expiration on November 1, 2007, permanent. H.R. 742, sponsored by Rep. Anna Eshoo (D-CA), and H.R. 1077, sponsored by Rep. John Campbell (R-CA) will be heard by the Subcommittee on Commercial and

Administrative on May 22, 2007. A companion bill, S. 156, by Sen. Ron Wyden (D-OR), is before the Senate Commerce Committee.

- **Business Activity Tax Simplification Act (BATSA)** – Although this legislation, which would impose a federal physical presence test on state corporate and other business activity taxes, has not yet been introduced, Sen. Charles Schumer (D, NY) is said to be reintroducing a scaled-down version of his BATSA legislation from last year. The Question and Answer section of the Coalition to Protect Interstate Commerce website ([www.batsa.org](http://www.batsa.org)) was recently updated. We will keep you apprised of developments in this area.
- **Cell Phone Tax Moratorium Act of 2007** – This legislation, S.166 in the Senate by Senator John McCain (R-AZ) and H.R. 436 by Rep. Mary Bono (R-CA), would prohibit new cell phone-specific state and local tax laws for a period of three years. It was incorporated in the comprehensive telecommunications legislation adopted by the Senate Commerce Committee last year. There has been much speculation that, due to developments on the state level, there will not be major telecommunications legislation this year. The MTC, as well as governors and state legislatures, have been working with the telecommunications industry to make state and local taxation of telecommunications simpler and more uniform. Legislation such as this can act as a disincentive for state governments to work in collaboration with industry.
- **The Sales Tax Simplification and Fairness Act** – This legislation, which would authorize states to require remote sellers to collect tax on goods and services sold into the state, has not yet been reintroduced in the 110<sup>th</sup> Congress. Discussions are ongoing as to the legislation's provisions with the hope that a bill can be introduced after the August recess so that it can move forward before the end of the year.

It is clear from the above updates that the MTC Legislative Day was very propitiously timed on May 9, 2007 as two matters are about to have hearings (internet access and hotel intermediaries) and three other items could arise in the next few months (BATSA, Cell Phone Moratorium, and SSTP).