



MULTISTATE TAX COMMISSION

Working Together Since 1967 to Preserve Federalism and Tax Fairness

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February 13, 2008

The Honorable John Conyers, Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, D.C. 20515

RE: H.R. 5267, the Business Activity Tax Simplification Act of 2008

Dear Congressman Conyers,

The Multistate Tax Commission opposes H.R. 5267, the Business Activity Tax Simplification Act of 2008 (BATSA), which was recently introduced and referred to the House Judiciary Committee.

Background

The Multistate Tax Commission is an intergovernmental state tax agency created in 1967 by state compact as an effort to protect state tax authority and work to administer, equitably and efficiently, tax laws that apply to multistate and multinational enterprises.

BATSA Hurts Small, Local Businesses

BATSA would authorize a wave of new corporate tax sheltering activity aimed at avoiding state and local business taxes. It would reward the major multistate corporations pressing for its enactment with eliminated tax liability in many states in which they are doing business. These large, multistate corporations would enjoy an unfair advantage compared to their small business competitors who are locally-oriented and would become the bulk of the corporate tax base for a state.

With large, multistate corporations emboldened to eliminate their jobs and investment in a state (following the BATSA recipe) yet still being able to profit from a state's economic market, the resulting reduction in the business tax base leaves state legislatures with the task of cobbling together needed revenue by increasing taxes on the small businesses and individuals or cutting important state services.

BATSA Hurts Important State Services

BATSA would cause a large majority of states to lose substantial business activity tax payments from multistate and multinational corporations that would no longer be subject to tax because of the higher nexus threshold that would be established by the bill.

The Congressional Budget Office has concluded that the enactment of substantially similar versions of BATSA would cause state and local governments to lose approximately \$3 billion in annual revenues once corporations have an opportunity to restructure their operations to take full advantage of the tax-sheltering opportunities the bill creates. The National Governors Association placed that loss at \$ 6.6 billion. Thus, BATSA represents a huge unfunded mandate; indeed, it would be the largest state tax preemption mandate since the Congressional Budget Office began to track them.

By depriving states of business activity tax revenues they currently are collecting, the legislation would impair their ability to provide services that are a critical foundation of a healthy national economy — such as high-quality K-12, university education, public safety, and transportation infrastructure. This is especially true at a time when the national economy is facing recession and most states are already under fiscal stress and trying to fill budget gaps.

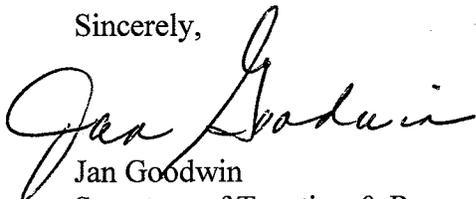
Conclusion

A congressionally-imposed business activity tax nexus threshold even loosely based on the current text of BATSA would foster inequity between big and small businesses, and thus create an unbalanced environment where giant multistate and multinational corporations could compete, without paying taxes, with local businesses.

In today's economic environment, any federal preemption of state tax authority must be taken very seriously; and in this circumstance an act which so clearly benefits the richest corporations over our struggling small local businesses, should be opposed. States agree there should be uniform rules for state tax nexus and have made progress toward this goal. There is no need for federal preemption of this critical state issue.

Thank you for your consideration of our views. We would be happy to discuss these issues further or provide any additional information you would like. Two years ago, you were integral in efforts to oppose similar legislation for which we are very grateful. We urge you to continue these efforts against this very detrimental bill.

Sincerely,



Jan Goodwin
Secretary of Taxation & Revenue,
New Mexico
Chair, Multistate Tax Commission



Joe Huddleston
Executive Director
Multistate Tax Commission

CC: Members, Committee on the Judiciary