Working together since 1967 to preserve federalism and tax fairness

To: Uniformity Committee
From: Roxanne Bland, Counsel
Date: July 25, 2010
Subject: Report on Pending Federal Legislation, 111\textsuperscript{th} Congress

Below is a report on proposed federal legislation pending in the 111\textsuperscript{th} Congress relating to state taxation.

\textbf{Income/Franchise Taxes}

1. H.R. 1083, \textit{Business Activity Tax Simplification Act of 2009}

Expands the federal prohibition against state taxation of interstate commerce to: (1) include taxation of out-of-state transactions involving all forms of property, including intangible personal property and services (currently, only sales of tangible personal property are protected); and (2) prohibit state taxation of an out-of-state entity unless such entity has a physical presence in the taxing state that is not “limited” or “transient.” Sets forth criteria for determining that a person has a physical presence in a state. Introduced 2/13/2009. Sponsor: Rep. Rick Boucher, R-VA. Referred to Subcommittee on Commercial and Administrative Law. \textbf{Current Activity:}


\textbf{a. H.R. 2110:} Limits state taxation of the wages or other remuneration of any employee who performs duties in more than one state to: (1) the state of the employee's residence; and (2) the state in which the employee is present and performing employment duties for more than 30 days. Exempts from the definition of "employee" for purposes of this Act a professional athlete or entertainer or certain public figures. Introduced on 4/27/2009. Sponsor: Rep. Henry C. (Hank) Johnson, Jr. D-GA. Referred to Subcommittee on Commercial and Administrative Law. \textbf{Current Activity: No hearing has been held and none is scheduled.}

\textbf{b. H.R. 2600:} Prohibits a state from imposing an income tax on the compensation of a nonresident individual for any period in which such individual is not physically present in or working in such state or from deeming such nonresident individual to be present in or working in such state on the grounds that: (1) such individual is present at or working at home for convenience; or (2) such individual's work at home fails any convenience of the employer test or any similar test. Introduced on 5/21/09. Sponsor: Rep. James A. Himes, D-CT. Referred to the Subcommittee on Commercial and Administrative Law. \textbf{Current Activity:}

Amends the Internal Revenue Code to eliminate the restriction on reductions of Federal income tax refunds by permitting a state to offset state income tax obligations owed by nonresidents against any federal income tax refunds due to such nonresidents if such state has in effect a reciprocal agreement with the Secretary of the Treasury that allows an offset of federal income tax obligations against state tax refunds. Introduced on 5/7/09. Sponsor: Rep. John Lewis, D-GA. Current activity:

4. H.R. 1956, Crime Victim Restitution and Court Fee Intercept Act
Amends the Internal Revenue Code to direct the Secretary of the Treasury, upon receiving notice from a state judicial agency that a named person owes a past-due, legally enforceable state judicial debt, to pay such debt from any tax refund due to such person. Introduced on 4/2/09. Sponsor: Rep. Erik Paulsen, R-MN. Current activity: