



MULTISTATE TAX COMMISSION

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To:	Sales and Use Tax Subcommittee
From:	Roxanne Bland, MTC Counsel
Date:	July 25, 2011
Subject:	Report on Pending Federal Legislation, 112 th Congress

1. S. 543, H.R. 1002, Wireless Tax Fairness Act of 2011

Prohibits states or local governments from imposing any new discriminatory tax on mobile services, mobile service providers, or mobile service property for five years after the enactment of this Act. Defines "new discriminatory tax" as a tax imposed on mobile services, providers, or property that is not generally imposed on other types of services providers or property, or that is generally imposed on others at a lower rate. "Principles" of 4-R Act apply to any allegedly discriminatory treatment, including redress in federal courts. A companion bill was introduced in the Senate on 3/10/11. Sponsor: Sen. Ron Wyden, D-OR and referred to the Committee on Finance. House version introduced on 3/10/11. Sponsor: Rep. Zoe Lofgren, D-CA. Referred to the Subcommittee on Courts, Commercial and Administrative Law. Hearing held on 3/15/11. Current activity: Mark-up held in Judiciary Committee on 7/14/11. Two amendments offered: First amendment exempts all cell phone taxes enacted by referendum. Second amendment requires GAO to conduct a 2 year study from the date of the Act to determine the effects of the moratorium on consumer pricing. Passed, with amendments, on voice vote. Current activity: May go to House floor before August recess.

2. H.R. 1860, Digital Goods and Services Tax Fairness Tax of 2011

Prohibits multiple or discriminatory taxes on or with respect to the sale or use of digital goods or digital services. Taxes on or with respect to sales of digital goods and services may only be imposed on the sale to a customer. Such taxes may only be imposed on and collected only from a customer or a seller. Taxes may be imposed only by the state and local jurisdictions whose territorial limits encompass the customer's tax address. For multiple locations, seller may determine customer's tax address or addresses as provided by the customer. Seller relying in good faith on address or addresses provided by customer shall be held harmless for any additional tax based on a determination of a different address. Bundling: digital goods and services bundled with other goods and services may be taxed at the same rate as the other goods and services unless seller can reasonably identify charges for digital goods and services from records kept in the regular course of business. Introduced 5/12/11, referred to Committee on the Judiciary. Hearing held in May, but not scheduled for markup. Sponsor: Rep. Smith, R-TX. Current activity: None.

3. H.R. _____, End Discriminatory State Taxes for Automobile Renters Act of 2011

This bill would impose a 5-year moratorium on the introduction of automobile-rental specific taxes. Not introduced. Hearing 6/14/11 was abruptly pulled from the docket. No new date set. Current activity: None.

4. Main Street Fairness Act

Not introduced. Judiciary Committee Ranking Member John Conyers (D-MI) and Assistant Majority Leader Sen. Dick Durbin (D-IL) have said they will serve as chief sponsors and will introduce soon.

5. H.R. 1804, State Video Tax Fairness Act

Prohibits states from imposing discriminatory tax on any means of providing multichannel video service, including Internet, direct satellite, and cable services. Defines discriminatory tax as where the net tax rate imposed on one provider is higher than another. Net tax rate defined as the effective rate minus deductions, exclusions, credits, subsidies, etc. that in effect lower the effective rate. Grandfathers in taxes imposed before 1/1/11, but should not be read as condoning such taxes. Introduced by Rep. Sensenbrenner, R-WI. Current activity: None.