



Business Roundtable™

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June 20, 2008

The Honorable Linda Sanchez
U.S. House of Representatives
House Committee on the Judiciary
Chair, Subcommittee on Commercial and Administrative Law
Washington, DC 20515

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The McGraw-Hill Companies
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The Honorable Chris Cannon
U.S. House of Representatives
House Committee on the Judiciary
Ranking Member, Subcommittee on Commercial and Administrative
Law
Washington, DC 20515

Re: Business Activity Tax Simplification Act (H.R. 5267)

Dear Chairwoman Sanchez and Representative Cannon:

On behalf of the members of Business Roundtable, I am submitting this letter for the record regarding the Business Activity Tax Simplification Act of 2008 ("BATSA"), H.R. 5267, for the Commercial and Administrative Law Subcommittee's June 24, 2008, hearing.

Business Roundtable, a CEO-led organization of leading U.S. companies with a combined workforce of more than 10 million employees and \$4.5 trillion in annual revenues, strongly supports BATSA. This important legislation would clarify and modernize the "nexus" rules that govern the ability of States to impose business activity taxes on companies that do not have a significant physical presence in the taxing jurisdiction. The legislation would also update Public Law 86-272 to provide the same protections for sales of services and intangibles that currently apply to sales of tangible personal property. By providing a uniform, national jurisdictional standard for state and local taxation of interstate commerce, BATSA will promote a legally certain and stable business climate that expands interstate commerce. In doing so, this legislation will create new jobs, increase business investment, and foster economic growth.

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A physical presence standard promotes fairness by ensuring that businesses that receive benefits and protections provided by state and local governments pay their fair share for these services. It is incongruous with good tax policy that out-of-state businesses, who never set foot in a jurisdiction, should be subject to a tax burden and pay for services in that jurisdiction. In addition, a physical presence standard provides legal certainty, resulting in lower compliance costs and a stable business climate where tax considerations do not hinder business decisions. The physical presence standard is a simple and efficient rule that benefits businesses and state and local governments alike.

With respect to Public Law 86-272, Congress determined that interstate commerce, and the economy as a whole, would benefit if businesses were allowed to solicit customers in a state without being subject to that state's income taxes. BATSA would update these protections to put sellers of goods, services, and intangibles on an even footing. The legislation would also provide clarity and ensure widespread application of Public Law 86-272 by stating that these protections apply equally to all business activity taxes.

By enacting BATSA, Congress will satisfy its constitutional responsibility to ensure that interstate commerce is not burdened by State actions. Importantly, BATSA would not interfere with the ability of a State to impose business activity taxes on a company that is properly subject to its taxing jurisdiction.

Thank you for your consideration of this important legislation.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Castellani', written over a horizontal line.

John J. Castellani