



June 20, 2008

**Statement of Kristina Rasmussen
Director of Government Affairs for the National Taxpayers Union
Submitted to the Subcommittee on Commercial and Administrative Law
United States House of Representatives
On H.R. 5267, the Business Activity Tax Simplification Act**

Dear Ms. Chairwoman, Mr. Ranking Member, and Members of the Subcommittee:

On behalf of the 362,000 members of the National Taxpayers Union, I urge you to support H.R. 5267, the Business Activity Tax Simplification Act. This legislation is an important element of broader tax simplification efforts. Specifically, the bill establishes a clear test to ensure that only businesses having employees or property physically present within a given jurisdiction are subject to business activity taxes.

The integration of the Internet and telecommunication technologies has allowed businesses to expand across state lines, to the point where such activities are commonplace. However, these developments have created confusion about when states are allowed to collect income taxes from out-of-state companies conducting certain activities within their respective jurisdictions.

In 1992, the U.S. Supreme Court ruled in *Quill Corp. v. North Dakota* that a state could not impose taxes on an out-of-state business unless that business has a “substantial nexus” within the taxing state. At that time, the Supreme Court declined to rule on the nexus standard as applied to business activity taxes. Unfortunately, governments are increasingly defining “substantial nexus” differently, leading to a complex matrix of tax rules. If this practice continues, it will have a grim effect on interstate commerce and the entire economy.

In 2007, the Court refused to review two cases that would have directly challenged the constitutionality of extreme applications of “economic nexus” standards. Thus, a legislative solution is clearly warranted. Congress now has the opportunity to resolve this ongoing dispute by approving the pro-taxpayer approach contained within H.R. 5267.

The Business Activity Tax Simplification Act protects taxpayers from harmful state policies by providing standards that define when firms are obliged to pay business activity taxes. The legislation promotes fairness, minimizes litigation, and creates a business climate that encourages companies to invest and to expand interstate commerce. This legislation is a common-sense way for Congress to promote economic growth, and we urge all Members to support H.R. 5267.

Sincerely,

Kristina Rasmussen
Director of Government Affairs