

June 20, 2008

Software & Information
Industry Association

1090 Vermont Ave NW Sixth Floor
Washington, DC 20005-4095



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

Dear Chairman Conyers and Members of the Committee:

On behalf of the Software & Information Industry Association (SIIA), I urge you to support H.R. 5267, the Business Activity Tax Simplification Act (BATSA), legislation to establish a bright-line physical presence nexus standard to clarify that physical presence is the constitutional standard for imposition of business activity taxes.

As the principal trade association of software and digital content companies, the more than 500 members of SIIA are software companies, e-businesses, and digital information service companies. The software and information industries are critical drivers of the U.S. and global economies, as they are among the fastest growing and most important industries. In 2005, these industries grew nearly 11 percent, compared with 3.2 percent for the economy as a whole.¹

Over the past several years, there has been a dramatic increase in state efforts to collect business activity taxes from non-resident businesses. This unfair and troubling practice poses a substantial threat to high-growth technology companies that comprise SIIA's membership, particularly smaller and medium-sized entrepreneurial companies that do not have the resources to spend on litigation to fight unfair and unlawful state audits.

If enacted, H.R. 5267 would establish a bright-line physical presence nexus standard for states to apply in assessing business activity taxes. Importantly, the legislation would not impose any new restrictions on states' taxing power, rather it would merely clarify states' existing authority to tax interstate commerce.

Enactment of H.R. 5267 is critical to ensure the continuation of a legal framework that encourages investment in the digital marketplace and the benefits it provides for interstate commerce. If the digital marketplace and interstate commerce continue to be stifled by unfair state taxation practices, all states—and the U.S. economy—will suffer the consequences.

Thank you for your attention to this important issue. I urge you to support H.R. 5267.

Sincerely yours,

A handwritten signature in black ink that reads "Ken Wasch". The signature is written in a cursive, slightly slanted style.

Ken Wasch
President

¹ *Software and Information: Driving the Global Knowledge Economy*, Software & Information Industry Association, 2008. (<http://www.siiia.net/estore/globecon-08.pdf>)