



Partnership for New York City

**TESTIMONY SUBMITTED TO THE HOUSE JUDICIARY SUBCOMMITTEE
ON COMMERCIAL AND ADMINISTRATIVE LAW**

**HEARING ON STATE TAXATION:
THE ROLE OF CONGRESS IN DEFINING NEXUS**

Thursday, February 4, 2010

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PRESIDENT & CEO
PARTNERSHIP FOR NEW YORK CITY**

Thank you, Chairman Cohen and members of the Subcommittee for the opportunity to submit testimony.

The Partnership for New York City is a nonprofit organization representing leading international and regional business leaders who partner with government and organized labor to promote jobs, economic growth and public education. Our members are responsible for employing more than 7 million Americans and contribute \$740 billion to the national Gross Domestic Product. We strongly support H.R.1083, the Business Activity Tax Simplification Act of 2009 (“BATSA”).

BATSA would ensure that companies are subject to state business taxes only in those states where they have a physical presence and from which their business operations and employees derive benefits. It would stop the practice begun recently by some states of taxing corporations based on where their customers, rather than their businesses, are located. This practice has resulted in significant new impositions on companies, in terms of both tax payments and compliance costs associated with responding to widely varying and constantly changing taxing schemes adopted by various jurisdictions. With approaches to tax jurisdiction varying from state to state, clarifying the physical presence requirement to articulate the bright-line physical presence nexus standard included in H.R. 1083 would alleviate the burden that many interstate businesses face and help promote economic growth across the country.

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New York City is a major hub for interstate commerce and many New York-headquartered companies transact business in all fifty states and around the world. New York City and State incur huge expenses to supply the infrastructure and services necessary to accommodate these companies. Traditional practice in the U.S. has been that states levy business activity taxes only on those businesses that have some type of physical presence (i.e., labor force or property) in the state. We support this tradition, which is based on the premise that a business should pay tax only to those jurisdictions that have provided it with meaningful benefits and protections (e.g., public schools, roads, police and fire protection, water and sewers). Businesses receive these benefits only from the jurisdictions where they are actually located. Businesses should only pay tax where they actually earn income, and economists agree that income is earned where a business employs its labor and capital.

BATSA would provide the clarity and discipline required to maintain a rational and hospitable business environment in the United States. It will also protect the tax base of America's major commercial centers that are absorbing the costs associated with the demands of major commercial operations.

Thank you for your consideration.