



U.S. House of Representatives Committee on the Judiciary F. James Sensenbrenner, Jr., Chairman

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News Advisory

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Cannon Subcommittee Hearing Tuesday on Legislation Clarifying When Business Activity Taxes Can Be Levied

*Legislation Would Establish "Bright Line Standard" For When States Can
Levy BATs Against Out-of-State Companies*

What: Legislative Hearing on H.R. 1956, "the Business Activity Tax Simplification Act of 2005"
Who: Subcommittee on Commercial and Administrative Law – Rep. Chris Cannon (R-Utah), Chairman
When: 1:00 p.m., Tuesday, September 27, 2005
Where: 2141 Rayburn Building

H.R. 1956 would create a bright-line physical presence nexus requirement in order for states to collect net income taxes or other business activity taxes ("BATs") on multistate enterprises. This legislation would amend a Public Law enacted in 1959 which prohibits states from imposing taxes on the net income of interstate sellers of tangible personal property if the only business activity within the state consists of the solicitation of certain sales orders.

PROBLEMS...

- ✓ Much confusion exists between businesses and state taxing authorities on when a state may levy a BAT. This confusion is harming interstate commerce, which is the responsibility of Congress under the Constitution. Businesses cannot accurately project their tax responsibilities; this ambiguity leads to costly litigation that would be unnecessary if H.R. 1956 were enacted.
- ✓ New Jersey wants a small South Carolina software company to pay a \$500 per year minimum corporate tax and a \$100 per year corporation registration fee even though the company's annual revenues from New Jersey customers has been as low as \$49 over the last few years.

THIS LEGISLATION WILL...

- ⇒ Establish a physical-presence nexus requirement in order for states to collect net income taxes or other "business activity taxes" on enterprises that conduct business across state lines.
- ⇒ Update current law to: (1) cover sales of *intangible* property and services; and (2) apply to all business activity taxes, not just those based on net income.

WITNESSES: Mr. Carey J. "Bo" Horn, President, ProHelp Systems, Inc.; Hon. Earl Ehrhart, GA State Rep. and National Chairman, American Legislative Exchange Council; Hon. Joan Wagnon, Kansas Secretary of Revenue and Chair, Multistate Tax Commission; and Mr. Lyndon D. Williams, Tax Counsel, Citigroup Corp.

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