



Legal Alert: Internet Tax Freedom Act Extension Clears Congressional Committee

June 18, 2014

On June 18, the Judiciary Committee of the U.S. House of Representatives voted in favor of H.R. 3086, the Permanent Internet Tax Freedom Act (PITFA) by a vote of 30-4. PITFA permanently extends the moratorium on state and local taxation of Internet access and “multiple” or “discriminatory” taxes on electronic commerce.

Background: The Internet Tax Freedom Act’s Expiration

The Internet Tax Freedom Act (ITFA) is set to expire on November 1, 2014. In addition to permanently extending ITFA, PITFA will eliminate the “grandfather” provision that allows certain states to tax Internet access. Representative Bob Goodlatte (R-VA), the Committee Chair and co-sponsor of PITFA, addressed the grandfather provision, stating that “[f]or those that still haven’t [discontinued taxing Internet access], it has been sixteen years, time enough to change their tax codes.”

Opposition to Permanent Extension/Grandfather Repeal

In opposition to PITFA, Rep. John Conyers, Jr. (D-MI), the Ranking Member of the Judiciary Committee, put forth an amendment to PITFA, co-sponsored by Rep. Sheila Jackson Lee (D-TX), which would temporarily extend the moratorium for four years and preserve the grandfather provision. In support of his amendment, Rep. Conyers stated that allowing the grandfather provision to lapse would cost Texas approximately \$350 million in tax revenues. Supporting the amendment to PITFA, Rep. Jerrold Nadler (NY) claimed that permanently extending ITFA sends the wrong message regarding states’ right to make fundamental decisions regarding taxation. The Conyers-Jackson Lee amendment was ultimately struck down by a vote of 12-21.

Attempts to Pass Other State Tax Federal Legislation

As expected, there were calls for the Committee to address

Related People/Contributors

- Michele Borens
- Jonathan A. Feldman
- Jeffrey A. Friedman
- Todd A. Lard
- Marc A. Simonetti
- Carley A. Roberts
- Eric S. Tresh
- Scott Wright
- Douglas Mo
- Prentiss Willson
- Timothy A. Gustafson
- Charles C. Kearns
- Pilar Mata
- Mary C. Alexander
- Andrew D. Appleby
- Zachary T. Atkins
- Madison J. Barnett
- Todd G. Betor
- Nicole D. Boutros
- Christopher N. Chang
- Stephanie T. Do
- Ted W. Friedman
- Sahang-Hee Hahn
- Jessica L. Kerner
- Jonathan E. Maddison
- Suzanne M. Palms
- Kathryn E. Pittman
- David A. Pope
- Derek Takehara
- Maria M. Todorova

other federal legislation that limit or expand state taxation:

- Rep. Darrell Issa (R-CA) called for the Committee to pass PITFA and “pivot” to pass the “Marketplace Fairness Act” (MFA, S.743), which would allow states to compel remote retailers to collect sales tax. This push for the Committee to address the MFA was echoed by other Committee members.
- Rep. Bobby Scott (D-VA) called for the Committee to address the “Business Activity Tax Simplification Act” (BATSA H.R. 5267). BATSA would require a bright-line physical presence nexus standard applicable to corporate income and other taxes.
- Rep. Hank Johnson (D-GA) urged the Committee to address H.R. 1129, the “Mobile Workforce State Income Tax Simplification Act,” which would limit states’ ability to require employers to withhold personal income taxes if a traveling employee is present and performing employment duties for 30 days or less during the calendar year.
- Rep. Zoe Lofgren (D-CA) and Rep. Steve Cohen (D. TN) put forth amendments to PITFA that would tack on H.R. 2309, the “Wireless Tax Fairness Act,” and H.R. 2543, the “End Discriminatory State Taxes for Automobile Renters Act,” respectively. Both amendments were withdrawn unanimously.

The next step for PITFA is a full vote by the House of Representatives. A similar bill, the “Internet Tax Freedom Forever Act,” S. 1431, is currently pending before the Senate.

If you have any questions about this Legal Alert, please feel free to contact any of the attorneys listed under 'Related People/Contributors' or the Sutherland attorney with whom you regularly work.