

May 4, 2011

Chairman Lamar Smith  
Chairman Howard Coble  
House Judiciary Committee and  
Subcommittee on Courts, Commercial and Administrative Law  
United States House of Representatives  
Washington, DC 20515

Re: H.R. 1439, Business Activity Tax Simplification Act of 2011

Dear Chairmen Smith and Coble:

The below-listed businesses, trade associations and taxpayer groups strongly support H.R. 1439, the Business Activity Tax Simplification Act of 2011 ("BATSA"), and respectfully request that you favorably report the bill out of the Committee as soon as possible.

BATSA was introduced recently by Representatives Bob Goodlatte (R-VA) and Bobby Scott (D-VA). The bill has strong bipartisan support among members of the Judiciary Committee. BATSA would establish a bright-line rule that all states would follow by codifying the traditional physical presence nexus standard governing state imposition of corporate income taxes and comparable business activity taxes. The bill also would modernize Public Law 86-272, creating consistent standards for solicitation activities across lines of industry. This means that a state or locality would continue to be permitted to impose a business activity tax on a business that is physically present in its jurisdiction (*e.g.*, having employees, an office or real property there) for more than fourteen days in a taxable year. A business that has no real presence, *de minimis* or transient presence, or one that engages in mere solicitation or certain other activities in a state, would not be subject to taxation by the state in which such limited activities take place but in the state where it is physically present and has substantial activities.

BATSA also makes clear that such uniform, simplified tax jurisdiction standards would determine whether every corporation is subject to taxation, regardless of whether it is a member of an affiliated or combined group. Thus, it prevents extraterritorial taxation of the economic activity of a corporation merely because of its ownership affiliation.

BATSA establishes minimum tax jurisdictional standards to reduce the burden on interstate commerce caused by the present hodge-podge of rules and regulations among the several taxing jurisdictions that create administrative nightmares for small and large multistate businesses in the United States and are difficult for state and local governments

to administer. The bill would ensure fairness, minimize costly litigation for both state governments and taxpayers and create legal certainty and a stable business environment that encourages companies to make investments in the United States, expand interstate commerce and create new jobs. At the same time, the bill would ensure that businesses continue to pay business activity taxes to support state governments in providing public infrastructure, schools, educational institutions, a trained workforce and other benefits and protections. Finally, BATSA would end the disconnect between the international tax system's permanent establishment rule and the current efforts of aggressive states to expand their tax jurisdiction, thereby eliminating concerns being raised by some of our country's treaty partners.

Thank you in advance for considering our request. We look forward to working with you, your staff and all members of the House Judiciary Committee on the Business Activity Tax Simplification Act of 2011.

Sincerely,

Abercrombie & Fitch Co.  
ADCO Products, Inc.  
Adhesive and Sealant Council  
Agilent Technologies, Inc.  
Air-Conditioning, Heating and Refrigeration Institute  
Alcoa Inc.  
American Apparel & Footwear Association  
American Bankers Association  
American Composites Manufacturers Association  
American Express Company  
American Financial Services Association  
American Homeowners Grassroots Alliance  
American Legislative Exchange Council  
American Lighting Association  
American Sportfishing Association  
A.O. Smith Corporation  
Apple Inc.  
Arch Coal, Inc.  
Association for Competitive Technology  
Association of Equipment Manufacturers  
Automotive Parts Remanufacturers Association  
Bay Beyond Inc.  
Bayer  
Beall's, Inc.

May 4, 2011

Page 3

Big Lots Stores, Inc.  
Birmingham Business Alliance Finance and Tax Committee  
BMC Software  
Bobrick Washroom Equipment, Inc.  
Boehringer Ingelheim Pharmaceuticals, Inc.  
Brunswick Corporation  
Burger King Corporation  
Business and Institutional Furniture Manufacturers Association (BIFMA) International  
California Taxpayers Association  
Camping World  
Capital One Financial Corporation  
Caterpillar Inc.  
CBS Corporation  
Citigroup  
Computing Technology Industry Association (CompTIA)  
Consumer Electronics Association  
Council On State Taxation (COST)  
The Cristol Group, Inc.  
CropLife America  
Culver Franchising System, Inc., d/b/a Culver's  
Darden Restaurants, Inc.  
Dave's Gourmet, Inc.  
Dick's Sporting Goods  
Direct Marketing Association, Inc.  
Discovery Communications, Inc.  
The Dow Chemical Company  
eBay Inc.  
EBSCO Industries, Inc.  
Emerson  
Fairfax County Chamber of Commerce  
Farm Equipment Manufacturers Association  
Fashion Accessories Shippers Association  
Filemaker, Inc.  
Financial Executives International's Committee on Private Company-Policy  
Financial Executives International's Committee on Taxation  
Financial Services Roundtable  
Firehouse Restaurant Group, Inc.  
Fischer & Wieser Specialty Foods, Inc.  
Gap Inc.  
GE Capital Corp.  
General Electric Co.

May 4, 2011

Page 4

Gerber  
Greeting Card Association  
Hatco Corporation  
H.B. Fuller Company  
Hope Trucking, Inc.  
The Hosiery Association  
Hovnanian Enterprises, Inc.  
HSBC-North America  
Illinois Chamber of Commerce  
Illinois Technology Association (ITA)  
INDA, Association of the Nonwoven Fabrics Industry  
Independent Lubricant Manufacturers Association  
Industrial Fasteners Institute  
Industrial Heating Equipment Association  
Interlocking Concrete Pavement Institute  
International Bottled Water Association  
International Franchise Association  
Investment Company Institute  
Johnson & Johnson  
Jowat Corporation  
Kenrich Petrochemicals, Inc.  
Keowee Systems, Inc.  
Kimberly-Clark Corporation  
Kitchen Cabinet Manufacturers Association  
Leggett & Platt, Incorporated  
Levi Strauss & Co.  
Limited Brands, Inc.  
LORD Corporation  
LTL Service of Wisconsin, Inc.  
Macy's, Inc.  
Magazine Publishers of America  
Marich Confectionery  
Maryland Chamber of Commerce  
Media Financial Management  
Microsoft Corporation  
Mistco Inc.  
Montana Chamber of Commerce  
Montebello Kitchens  
Monterey Boats  
Mortgage Bankers Association  
Motion Picture Association of America



May 4, 2011

Page 5

Motor & Equipment Manufacturers Association  
National Association of Manufacturers  
National Council of Textile Organizations  
National Foreign Trade Council  
National Marine Manufacturers Association  
National Restaurant Association  
National Retail Federation  
National Solid Wastes Management Association  
National Taxpayers Union  
Nationwide Insurance  
Nestle Holdings, Inc.  
NetChoice  
Neutral Posture  
Newspaper Association of America  
New York Bankers Association  
Niagara Cutter, LLC  
North American Association of Food Equipment Manufacturers  
Novamelt-Jowat LLC  
Novartis Corporation  
Organization for International Investment  
Owner-Operator Independent Drivers Association  
Partnership for New York City  
Pasta by Valente, Inc.  
Pinski-Portugal and Associates, Inc.  
Poland Springs  
PostNet International Franchise Corporation  
PPG Industries, Inc.  
PulteGroup, Inc.  
Purina  
Rockwell Collins, Inc.  
sanofi-aventis U.S.  
Sea Fare Foods Corp.  
Smithfield Foods, Inc.  
Society of Chemical Manufacturers and Affiliates  
Software Finance & Tax Executives Council  
Sony Corporation of America  
Source Atlantique, Inc.  
Specialty Equipment Market Association (SEMA)  
Steel Manufacturers Association  
Stonewell Kitchen LLC  
Stuller, Inc.

May 4, 2011

Page 6

Symantec Corporation  
TechAmerica  
Tennessee Express, Inc.  
Textile Care Allied Trades Association  
Thomson Reuters  
303 Products, Inc.  
Time Warner Inc.  
Tjernlund Products, Inc.  
Travel Goods Association  
T. Rowe Price Group, Inc.  
Tyson Foods, Inc.  
US Bancorp  
U.S. Chamber of Commerce  
Verisk Analytics, Inc.  
Vermeer Corporation  
Viacom, Inc.  
Virginia Bankers Association  
Virginia Chamber of Commerce  
Walker Information, Inc.  
The Walt Disney Company  
Waste Equipment Technology Association  
Wells Fargo  
Wendy's/Arby's Group, Inc.  
Women Impacting Public Policy  
Yum! Brands, Inc.