

Congress of the United States
Washington, DC 20515

October 7, 2008

The Honorable Timothy M. Kaine
Governor
Commonwealth of Virginia
Patrick Henry Building, 3rd Floor
1111 East Broad Street
Richmond, VA 23219

Re: The Business Activity Tax Simplification Act

Dear Governor Kaine:

We write to urge your support for the Business Activity Tax Simplification Act (BATSA). BATSA was introduced in the 110th Congress (H.R. 5267) by Representatives Rick Boucher (D-VA) and Bob Goodlatte (R-VA) with strong bipartisan support among members of Congress. We expect the legislation to be reintroduced at the beginning of the 111th Congress.

Virginia businesses have been acutely affected by business activity tax nexus problems. Smithfield Foods has had their trucks threatened with confiscation by New Jersey tax revenue agents. Virginia based Capital One has joined other financial institutions in becoming easy prey for other states and localities seeking to increase their tax revenues by targeting out of state businesses. Our review of the issue also estimates similar vulnerabilities in the manufacturing, information technology, franchising, and media industries that are the backbone of the Virginia economy.

BATSA would clarify the constitutional requirement for a physical presence nexus standard governing state assessment of corporate income taxes and comparable taxes on a business. Specifically, the bill would articulate a bright-line physical presence nexus standard that includes owning or leasing any real or tangible property, or assigning one or more employees to perform certain activities in the state for more than fifteen days in a taxable year. In addition, the bill would modernize P.L. 86-272 – which prohibits states from assessing net income taxes against a business if its only contact with the state involves the solicitation of orders for tangible personal property – so that it applies also to intangible property and services and so that it covers taxes that have replaced net income taxes.

BATSA would ensure fairness, minimize costly litigation for both state governments and taxpayers and create the kind of legally certain and stable business environment that encourages business to make investments, expand interstate commerce and create new jobs. At the same time, the bill would ensure that businesses continue to pay business activity taxes to states that provide them with direct benefits and protections.

Thank you in advance for considering our request. We look forward to working with you and your staff in securing enactment of the Business Activity Tax Simplification Act in the 111th Congress.

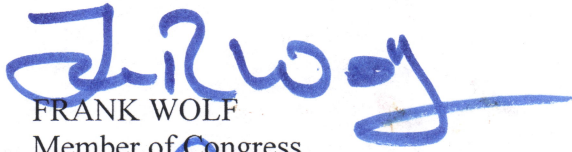
Sincerely,



RICK BOUCHER
Member of Congress



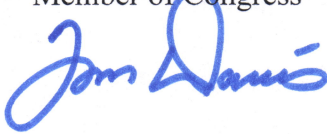
BOB GOODLATTE
Member of Congress



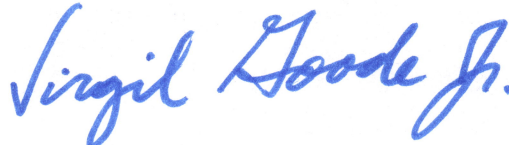
FRANK WOLF
Member of Congress



ROBERT C. "BOBBY" SCOTT
Member of Congress



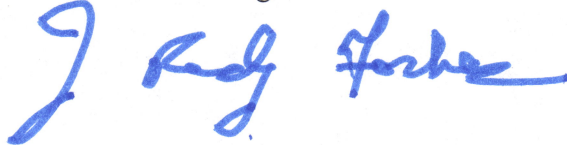
TOM DAVIS
Member of Congress



VIRGIL GOODE
Member of Congress



ERIC CANTOR
Member of Congress



J. RANDY FORBES
Member of Congress



THELMA DRAKE
Member of Congress



ROB WITTMAN
Member of Congress