



April 28, 2024

The Honorable Jim Jordan  
Chair  
House Judiciary Committee  
2138 Rayburn HOB  
Washington, DC 20515

The Honorable Jerrold Nadler  
Ranking Member  
House Judiciary Committee  
2142 Rayburn HOB,  
Washington, DC 20515

Dear Chair Jordan, Ranking Member Nadler, and Members of the House Judiciary Committee:

I write on behalf of the National Taxpayers Union (NTU), the nation's oldest taxpayer advocacy organization, in strong support of H.R. 8021, the Interstate Commerce Clarification Act of 2024, sponsored by Rep. Scott Fitzgerald (R-WI). This important legislation would clarify the definition of existing law to ensure that it fulfills its intended purpose of helping to protect out-of-state businesses from states seeking to tax them, even with no physical presence or activities within the state.

Previously, the Interstate Income Act of 1959, also known as P.L. 86-272, was established to prevent states from assessing income taxes on businesses with no activities within their boundaries except for the "solicitation of orders." This law was meant to stop states from taxing businesses simply because they sell products across state lines. If these businesses fulfill these orders from outside the state, then in theory they should be protected from being crushed under the weight of business income tax obligations from states all over the country. In practice, states have been chipping away at this law by interpreting extremely narrow definitions of "solicitation of orders." As [NTU Foundation](#) recently noted, this has culminated in the Multistate Tax Commission developing an expansive list of activities they interpret to be unprotected by P.L. 86-272. Under this new scheme, the [following activities](#) could result in state tax obligations for businesses with no physical nexus in state:

- Offering post-sale customer service through electronic means, such as email or online chat
- Offering automatic software updates
- Selling digital goods, such as software or streaming services
- Posting job openings and receiving resumes and applications through the business's website
- Using "digital cookies" to streamline customers' browsing experience

Clearly, the current interpretation of P.L. 86-272 is so far removed from its original intent as to be unrecognizable to the law's original authors. H.R. 8021 would make a commonsense fix to this legislation by clarifying exactly what is meant by "solicitation of orders" and would protect faraway businesses with minimal economic presence in a given jurisdiction from being taxed by avaricious state governments. NTU strongly supports Rep. Fitzgerald's bill and urges the committee to immediately pass this legislation.

Sincerely,

Nicholas Johns

Senior Policy & Government Affairs Manager  
National Taxpayers Union