



March 16, 2009

**An Open Letter to the United States Congress:
Support the Business Activity Tax Simplification Act!**

Dear Member of Congress:

On behalf of the 362,000 members of the National Taxpayers Union (NTU), I urge you to cosponsor and work to enact H.R. 1083, the Business Activity Tax Simplification Act. This legislation is an important element of broader tax simplification efforts. By establishing a clear “physical presence standard,” it would ensure that only firms having employees or property physically present within a given jurisdiction are subject to its business activity taxes.

Technological advancements have allowed for unprecedented expansion of commerce across state lines. While this has led to tremendous prosperity for some businesses and greater options for consumers, it has also led to confusion about when states are allowed to collect income taxes from out-of-state companies conducting activities within their jurisdictions.

In 1992, the U.S. Supreme Court ruled in *Quill Corp. v. North Dakota* that a state could not impose taxes on an out-of-state entity unless that business has a “substantial nexus” within the taxing state. Unfortunately, governments are increasingly defining “substantial nexus” differently, leading to an intricate matrix of tax rules.

If allowed to continue, this complexity threatens to stifle interstate commerce. In 2007, the Court refused to review two cases that would have directly challenged the constitutionality of extreme applications of “economic nexus” standards. Although other nexus controversies are working their way toward the court this year, it is far from certain that they will be heard. A legislative solution is clearly necessary, and Congress has the opportunity to provide it by enacting H.R. 1083.

The Business Activity Tax Simplification Act ends some harmful tax practices by defining specific standards under which firms are obliged to pay business activity taxes. The legislation reduces tax complexity, minimizes litigation, and fosters a business climate that encourages companies to invest and to expand interstate commerce. **NTU strongly supports H.R. 1083, the Business Activity Tax Simplification Act. Any roll call votes on this legislation will be significantly weighted in our annual Rating of Congress.**

Sincerely,

Andrew Moylan
Director of Government Affairs