

106TH CONGRESS
2D SESSION

H. R. 4267

To amend the Internet Tax Freedom Act to impose a permanent moratorium on State and local taxes on Internet access; to extend for 5 years the duration of the moratorium applicable to multiple and discriminatory taxes on the electronic commerce; to impose a 5-year moratorium on sales of digitized goods and products (and their counterparts); to encourage States to adopt a Uniform Sales and Use Tax, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 13, 2000

Mr. HYDE (for himself, Mr. CONYERS, Mr. GEKAS, and Mr. NADLER) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend the Internet Tax Freedom Act to impose a permanent moratorium on State and local taxes on Internet access; to extend for 5 years the duration of the moratorium applicable to multiple and discriminatory taxes on the electronic commerce; to impose a 5-year moratorium on sales of digitized goods and products (and their counterparts); to encourage States to adopt a Uniform Sales and Use Tax, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Internet Tax Reform
3 and Reduction Act of 2000”.

4 **SEC. 2. MORATORIUM AMENDMENT TO THE INTERNET TAX**
5 **FREEDOM ACT.**

6 (a) MORATORIUM AMENDMENT.—Section 1101(a) of
7 title XI of division C of Public Law 105–277 (112 Stat.
8 2681–719; 47 U.S.C. 151 note) is amended to read as
9 follows:

10 “(a) MORATORIA ON STATE AND LOCAL TAXES ON
11 THE INTERNET.—No State or political subdivision thereof
12 shall impose any of the following taxes:

13 “(1) Taxes on Internet access.

14 “(2) During the period beginning on October 1,
15 1998, and ending on October 21, 2006, multiple or
16 discriminatory taxes on electronic commerce.

17 “(3) During the period beginning on the date of
18 the enactment of the Internet Tax Reform and Re-
19 duction Act of 2000 and ending on October 21,
20 2006, taxes on sales of digitized goods and products
21 (and their counterparts).”.

22 (b) TECHNICAL AMENDMENTS.—Section 1101 of
23 title XI of division C of Public Law 105–277 (112 Stat.
24 2681–719; 47 U.S.C. 151 note) is amended—

25 (1) by striking subsection (b); and

1 (2) by redesignating subsections (c) through (h)
2 as subsections (b) through (g), respectively.

3 (c) LIABILITIES AND PENDING CASES.—Nothing in
4 the amendments made by this section affects—

5 (1) liability for taxes accrued and enforced be-
6 fore the date of enactment of this Act; or

7 (2) ongoing litigation relating to such taxes.

8 **SEC. 3. OTHER AMENDMENTS TO THE TAX FREEDOM ACT.**

9 Title XI of division C of Public Law 105–277 (112
10 Stat. 2681–719; 47 U.S.C. 151 note) is amended—

11 (1) by redesignating section 1104 as section
12 1107; and

13 (2) by inserting after section 1103 the fol-
14 lowing:

15 **“SEC. 1104. DETERMINATION OF JURISDICTIONAL NEXUS.**

16 “(a) COLLECTING TAXES.—The following factors
17 shall not be sufficient, separately or collectively, to em-
18 power a State to impose on a seller that is not physically
19 present in such State an obligation to collect a tax payable
20 to such State by a purchaser that is physically present
21 in such State:

22 “(1) The use by such seller of an Internet serv-
23 ice provider that is physically present in such State.

24 “(2) The placement of digital data by such sell-
25 er on a server located in such State.

1 “(3) The use of telecommunications service pro-
2 vided to such seller by a telecommunications pro-
3 vider that is physically present in such State.

4 “(4) The use or presence in such State of in-
5 tangible property owned by such seller.

6 “(5) The presence in such State of persons that
7 purchase from such seller.

8 “(6) The affiliation of such seller with a person
9 that is physically present in such State and that
10 pays any tax imposed by such State or by a political
11 subdivision of such State.

12 “(7) The performance of repair or warranty
13 services in such State by or on behalf of such seller
14 with respect to property sold by such seller if such
15 seller is not physically present in such State except
16 to perform such services.

17 “(8) The existence of a contract between such
18 seller and a person that is physically present in such
19 State to the extent that such contract provides for
20 the return to such person of goods purchased from
21 such seller by means of the Internet or of a nonelec-
22 tronic catalog.

23 “(9) The advertisement of the business location,
24 telephone number, or Internet address of such seller.

1 “(b) PAYMENT OF INCOME TAXES.—The following
 2 factors shall not be sufficient, separately or collectively,
 3 to empower a State to require a seller to meet the business
 4 activity and income tax reporting and payment obligations
 5 of such State:

6 “(1) Any of the factors specified in paragraphs
 7 (1) through (9) of subsection (a).

8 “(2) The registration relating to sales or use
 9 taxes in effect in such State, by such seller with
 10 such State.

11 “(3) The collection or remittance of use taxes
 12 by such seller to such State.

13 **“SEC. 1105. DEVELOPMENT OF UNIFORM SALES AND USE**
 14 **TAX ACT.**

15 “‘It is the sense of the Congress that, not later than
 16 October 21, 2004, States and political subdivisions of
 17 States should work cooperatively with the National Con-
 18 ference of Commissioners on Uniform State Laws (in this
 19 section referred to as the ‘Conference’) to develop and
 20 draft a Uniform Sales and Use Tax Act that—

21 “(1) reflects a simplified synthesis of the sales
 22 and use tax policies of States and political subdivi-
 23 sions of States, applicable to sellers described in
 24 paragraph (2);

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1 “(2) creates and maintains parity of collection
2 costs (net of vendor discounts) between—

3 “(A) sellers that are not physically present
4 in a State and that sell goods to purchasers
5 that are physically present in such State; and

6 “(B) sellers that are physically present in
7 a State and that sell goods to purchasers that
8 are physically present in such State; and

9 “(3) contains, among other matters—

10 “(A) uniform tax base definitions;

11 “(B) a uniform vendor discount;

12 “(C) uniform and simple sourcing rules;

13 “(D) a single sale and use tax rate per
14 State and a uniform limitation on any change
15 in such rate;

16 “(E) uniform audit procedures;

17 “(F) uniform forms for preparation by sell-
18 ers to determine and report the amount of tax
19 payable or remittable to a State;

20 “(G) uniform electronic filing and remit-
21 tance methods;

22 “(H) uniform rules for the determination
23 of the exempt status of sellers, and for the cre-
24 ation, distribution, and maintenance of a data-

1 base containing the identities of sellers that
 2 have such status);

3 “(I) a methodology for approving computer
 4 software that sellers may rely on to determine
 5 State sales and use tax rates; and

6 “(J) a methodology for maintaining rev-
 7 enue neutrality in overall sales and use tax col-
 8 lections within each State (such as reducing the
 9 Statewide sales tax rate) to account for any in-
 10 crease in revenue that is payable (on a vol-
 11 untary basis or otherwise) with respect to sales
 12 to purchasers that are physically present in
 13 such State made by sellers that are not phys-
 14 ically present in such State.

15 **“SEC. 1106. ADVISORY COMMISSION ON UNIFORM SALES**
 16 **AND USE TAX.**

17 “(a) ESTABLISHMENT.—There is established the Ad-
 18 visory Commission on Uniform Sales and Use Tax (in this
 19 section referred to as the ‘Commission’). The Commission
 20 shall—

21 “(1) be composed of 19 members appointed in
 22 accordance with subsection (b), including the chair-
 23 person who shall be selected by the members of the
 24 Commission from among themselves; and

1 “(2) conduct its business in accordance with the
2 provisions of this section.

3 “(b) MEMBERSHIP.—

4 “(1) IN GENERAL.—The Commissioners shall
5 serve for the life of the Commission. The member-
6 ship of the Commission shall be as follows:

7 “(A) 3 representatives from the Federal
8 Government, comprised of the Secretary of
9 Commerce, the Secretary of the Treasury, and
10 the United States Trade Representative (or
11 their respective delegates).

12 “(B) 8 representatives from State and
13 local governments (1 such representative shall
14 be from a State or local government that does
15 not impose a sales tax and 1 representative
16 shall be from a State that does not impose an
17 income tax).

18 “(C) 8 representatives of the electronic
19 commerce industry (including small business),
20 telecommunications carriers, local retail busi-
21 nesses, and consumer groups, comprised of—

22 “(i) 3 individuals appointed by the
23 Majority Leader of the Senate;

24 “(ii) 1 individual appointed by the Mi-
25 nority Leader of the Senate;

1 “(iii) 3 individuals appointed by the
2 Speaker of the House of Representatives;
3 and

4 “(iv) 1 individual appointed by the
5 Minority Leader of the House of Rep-
6 resentatives.

7 “(2) APPOINTMENTS.—Appointments to the
8 Commission shall be made not later than 45 days
9 after the date of the enactment of the Internet Tax
10 Reform and Reduction Act of 2000. The chairperson
11 shall be selected not later than 60 days after the
12 date of the enactment of the Internet Tax Reform
13 and Reduction Act of 2000.

14 “(3) VACANCIES.—Any vacancy in the Commis-
15 sion shall not affect its powers, but shall be filled in
16 the same manner as the original appointment.

17 “(c) ACCEPTANCE OF GIFTS AND GRANTS.—The
18 Commission may accept, use, and dispose of gifts or
19 grants of services or property, both real and personal, for
20 purposes of aiding or facilitating the work of the Commis-
21 sion. Gifts or grants not used at the expiration of the
22 Commission shall be returned to the donor or grantor.

23 “(d) OTHER RESOURCES.—The Commission shall
24 have reasonable access to materials, resources, data, and
25 other information from the Department of Justice, the

1 Department of Commerce, the Department of State, the
2 Department of the Treasury, and the Office of the United
3 States Trade Representative. The Commission shall also
4 have reasonable access to use the facilities of any such
5 Department or Office for purposes of conducting meet-
6 ings.

7 “(e) SUNSET.—The Commission shall terminate 60
8 days after the Commission submits the report required by
9 subsection (g).

10 “(f) RULES OF THE COMMISSION.—

11 “(1) QUORUM.—Nine members of the Commis-
12 sion shall constitute a quorum for conducting the
13 business of the Commission.

14 “(2) MEETINGS.—Any meetings held by the
15 Commission shall be duly noticed at least 14 days in
16 advance and shall be open to the public.

17 “(3) OPPORTUNITIES TO TESTIFY.—The Com-
18 mission shall provide opportunities for representa-
19 tives of the general public, taxpayer groups, con-
20 sumer groups, and State and local government offi-
21 cials to testify.

22 “(4) ADDITIONAL RULES.—The Commission
23 may adopt other rules as needed.

24 “(5) No finding or recommendation shall be in-
25 cluded in the report required by subsection (g) un-

1 less agreed to by at least two-thirds of the members
2 of the Commission serving at the time the finding or
3 recommendation is made.

4 “(g) DUTIES OF THE COMMISSION.—The duties
5 are—

6 “(1) to monitor the progress of the Conference
7 in carrying out the activities described in section
8 1105; and

9 “(2) not later than 180 days after the Con-
10 ference carries out the activities described in section
11 1105, submit to the Congress a report containing
12 the following:

13 “(A) The findings of the Commission
14 regarding—

15 “(i) the growth of electronic com-
16 merce;

17 “(ii) the impact of electronic com-
18 merce on traditional retailers; and

19 “(iii) the impact of sales to pur-
20 chasers that are physically present in a
21 State made by sellers that are not phys-
22 ically present in such State, on the revenue
23 of States and political subdivisions of
24 States;

1 during the 5-year period ending on December
2 31, 2004.

3 “(B) An assessment of whether the Uni-
4 form Sales and Use Tax Act drafted by the
5 Conference, as provided in section 1105, con-
6 tains the matters described in section 1105(3).

7 “(C) An assessment of whether the enact-
8 ment by States of such Uniform Sales and Use
9 Tax Act would result in equal tax collection
10 burdens (net of vendor discounts)—

11 “(i) for sellers that are not physically
12 present in a State and that sell goods to
13 purchasers that are physically present in
14 such State; and

15 “(ii) sellers that are physically present
16 in a State and that sell goods to pur-
17 chasers that are physically present in such
18 State.

19 “(D) An assessment of whether requiring
20 sellers that are not physically present in a State
21 to collect and remit sales and use taxes to any
22 such State that has not enacted such Uniform
23 Sales and Use Tax Act, would impose any un-
24 reasonable burden on interstate commerce or
25 would have any other adverse impact on eco-

1 nomic growth and activity through remote elec-
2 tronic channels.

3 “(E) A recommendation regarding whether
4 any State that enacts such Uniform Sales and
5 Use Tax Act should be permitted by the Con-
6 gress to collect sales and use taxes from all sell-
7 ers that are not physically present in such State
8 and that sell goods to purchasers that are phys-
9 ically present in such State.

10 “(F) Any other recommendations as re-
11 quired to address the findings of the Commis-
12 sion’s report.”.

13 **SEC. 4. CONFORMING AMENDMENTS.**

14 (a) CROSS REFERENCE IN THE TRADE ACT OF
15 1974.—Section 181(d) of the Trade Act of 1974 (19
16 U.S.C. 2241(d)) is amended by striking “section 1104(3)”
17 and inserting “1107(3)”.

18 (b) OTHER CROSS REFERENCE.—Section 1203(c) of
19 division C of Public Law 105–277 (112 Stat. 2681–727;
20 19 U.S.C. 2241 note) by striking “section 1104(3)” and
21 inserting “1107(3)”.

1 **SEC. 5. SENSE OF THE CONGRESS REGARDING DEVELOP-**
2 **MENT OF UNIFORM TELECOMMUNICATIONS**
3 **STATE AND LOCAL EXCISE TAX ACT.**

4 (a) DEVELOPMENT OF UNIFORM TELECOMMUNI-
5 CATIONS STATE AND LOCAL EXCISE TAX ACT.—It is the
6 sense of the Congress that, not later than October 21,
7 2003, States and political subdivisions of States should
8 work cooperatively with the National Conference of Com-
9 missioners on Uniform State Laws (in this section re-
10 ferred to as the ‘Conference’) to develop and draft a Uni-
11 form Telecommunications State and Local Excise Tax Act
12 under the terms of which States and political subdivisions
13 of States may impose on telecommunications only a sim-
14 plified tax described in paragraph (1) or (2) of subsection
15 (b).

16 (b) SIMPLIFIED TAX.—(1) Except as provided in
17 paragraph (2), the simplified tax referred to in subsection
18 (a) that may be imposed by a State shall—

19 (A) allow only 1 State transaction tax;

20 (B) require each telecommunications provider to
21 file only 1 tax return per reporting period per State;

22 (C) allow only 1 audit at the State level;

23 (D) establish nationwide uniform sourcing
24 rules;

25 (E) establish nationwide uniform definitions;

26 and

1 (F) provide for 120 days lead time for imple-
2 menting tax base and rate changes.

3 (2) If, on the effective date of this section, political
4 subdivisions of a State are authorized by State law to im-
5 pose a tax on telecommunications, then the simplified tax
6 referred to in subsection (a) that may be imposed by such
7 State and such political subdivisions shall—

8 (A) allow only 1 State transaction tax;

9 (B) require each telecommunications provider to
10 file only 1 tax return per reporting period per State;

11 (C) allow only 1 audit at the State level;

12 (D) establish nationwide uniform sourcing
13 rules;

14 (E) establish nationwide uniform definitions;

15 (F) provides for 120 days lead time for imple-
16 menting tax base and rate changes; and

17 (G) require with respect to such political sub-
18 divisions that—

19 (i) tax base and exemptions conform to the
20 simplified tax as imposed by such State;

21 (ii) a single tax return be filed with the
22 State tax return and with State distribution of
23 funds;

24 (iii) a unified audit be conducted at the
25 State level;

1 (iv) there be maintained a State-adminis-
 2 tered address, jurisdiction, and rate database in
 3 a nationwide uniform format to assign address-
 4 es to the appropriate taxing jurisdiction and to
 5 provide the appropriate rate;

6 (v) telecommunications providers that rely
 7 on such database be immune to liability to such
 8 political subdivisions for such simplified tax;
 9 and

10 (vi) there be provided a vendor's com-
 11 pensation.

12 **SEC. 6. SENSE OF THE CONGRESS REGARDING ELIMI-**
 13 **NATION OF EXCESSIVE TAX BURDEN ON**
 14 **TELECOMMUNICATIONS.**

15 It is the sense of the Congress that States and polit-
 16 ical subdivisions of States should eliminate the excessive
 17 tax burden on telecommunications by—

18 (1) eliminating telecommunications industry-
 19 specific and higher transaction tax rates;

20 (2) eliminating the excessive tax burdens on
 21 telecommunication real, tangible, and intangible
 22 property; and

23 (3) affording similar tax treatment of tele-
 24 communications infrastructure by States that ex-

1 empt from sales and use taxes purchases of certain
2 types of business equipment.

3 **SEC. 7. ENACTMENT BY STATES.**

4 It is the sense of the Congress that States should es-
5 tablish, jointly, a deadline for—

6 (1) enacting the Uniform Telecommunications
7 State and Local Excise Tax Act drafted under sec-
8 tion 5; and

9 (2) removing excess and multiple taxation of
10 telecommunications.

11 **SEC. 8. PENALTY.**

12 It is the sense of the Congress that Federal require-
13 ments against adverse discrimination by a State in tax-
14 ation of telecommunications services, property, or pro-
15 viders in relation to other services, property, and providers
16 in such State should apply to any State that fails to enact,
17 before October 21, 2004, the Uniform Telecommuni-
18 cations State and Local Excise Tax Act drafted under sec-
19 tion 5.

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