

**Statement of Congressman Robert C. "Bobby" Scott
Before the Committee on the Judiciary
Subcommittee on Courts, Commercial and Administrative Law
Hearing on H.R. 1439,
The Business Activity Tax Simplification Act of 2011
Wednesday, April 13, 2011**

Chairman Coble, Ranking Member Cohen, I appreciate you holding today's hearing on the Business Activity Tax Simplification Act introduced by my Virginia colleague Bob Goodlatte, and for providing me the opportunity to testify in support of this legislation.

The Business Activity Simplification Act or BATSA has attracted strong bipartisan support over the last several Congresses, and I suspect the version introduced in this Congress will attract the same amount of support.

BATSA seeks to update a 50 year old federal statute (Public Law 86-272) that determines when states can impose state income taxes on the sale of tangible personal goods in that state.

Over the years, states have adopted a series of business activity taxes that are proxies for state income tax, including gross receipts taxes, licensing arrangements, and other charges that states frequently seek to impose on out of state companies. Some states have enacted overly aggressive and often unfair business activity taxes.

Businesses in my state have been acutely affected by these aggressive business activity taxes. Smithfield Foods, located in Congressman Randy Forbes' district, has had its 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. Other sectors of the Virginia economy, such as manufacturing, information technology, franchising, and media industries, have also been targeted with overly aggressive business activity taxes by other states.

There is an urgent need to modernize this decades old law. BATSA would clarify the 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 either owning or leasing any real or tangible property in the state or assigning one or more employees to perform certain activities in the state for more than fifteen days in a taxable year.

No one is arguing that businesses should not be responsible for paying taxes to states where they do business. However, BATSA would ensure fairness, minimize costly litigation for both state governments and taxpayers, reduce the likelihood of a business being "double-taxed" on the same income, and create the kind of legally certain and stable business environment that encourages businesses to make investments, expand interstate commerce and

create new jobs. Most importantly, the bill would ensure that businesses continue to pay business activity taxes to states that provide them with direct benefits and protections.

I appreciate the Subcommittee's focus on this timely matter and I look forward to working with each of you to pass this important bill in this session of Congress. Thank you.