



H.R. 3678 – Internet Tax Freedom Amendments Act of 2007

FLOOR SITUATION

H.R. 3678 is being considered on the floor under suspension of the rules and will require a two-thirds majority vote for passage. This legislation was introduced by Representative John Conyers (D-MI) on September 27, 2007. It was ordered to be reported as amended by a vote of 38 to 0 by the Committee on the Judiciary on October 12, 2007.

H.R. 3678 was passed by the House of Representatives on October 16, 2007, by a vote of 405 to 2.

The Senate subsequently passed an amended version of H.R. 3678 by unanimous consent on October 25, 2007.

**Note: The Senate-passed version of H.R. 3678 extends the Internet tax moratorium through November 1, 2014, along with other changes outlined below.*

H.R. 3678, as amended by the Senate, is expected to be considered on the floor on October 30, 2007

BACKGROUND

The Internet Tax Freedom Act was enacted on October 21, 1998. The legislation, introduced by Representative Christopher Cox (R-CA), placed a three year moratorium on state and local governments imposing taxes on Internet access or e-commerce. It also grandfathered in any taxes collected and enforced before October 21, 1998.

The moratorium has been extended twice, most recently by the enactment of the Internet Tax Nondiscrimination Act (P.L. 108-435) on December 3, 2004. This legislation extended the moratorium and the grandfather exemption until November 1, 2007.

**Note: The House of Representatives originally passed a permanent moratorium on Internet taxes on November 17, 2003. However, in order for the legislation to pass the Senate, the extension was reduced to four years.*

Currently, six states apply sales tax to Internet access: New Mexico, North Dakota, Ohio, South Dakota, Texas, and Wisconsin. In addition, there are eight states that tax Internet access providers that had to purchase capacity to connect users to the Internet “backbone”: Alabama, Florida, Illinois, Minnesota, New Hampshire, Pennsylvania, Washington, and Missouri.

According to the Congressional Research Service (CRS), close to 99 percent of all zip codes in the United States have some access to broadband Internet. However, only 45 percent of households have purchased broadband Internet access. The Federal Communications Commission (FCC) states that one of the main reasons less than half of households have purchased access is the cost of the service.

There are currently two bills with bipartisan support introduced in the House that would permanently extend the moratorium.

- The Permanent Internet Tax Freedom Act of 2007 (H.R. 743) which was introduced by Representative Anna Eshoo (D-CA). This legislation currently has 248 cosponsors.
- The Internet Consumer Protection Act of 2007 (H.R. 1077) which was introduced by Representative John Campbell (R-CA). H.R. 1077 currently has 34 cosponsors.

**Note: During the mark-up of H.R. 3678, Representative Bob Goodlatte (R-VA) offered an amendment that would have permanently extended the Internet tax moratorium. The amendment was defeated 15 to 21, with five Democrat committee members, who are cosponsors of H.R. 743, voting against the amendment.*

After this amendment failed, Mr. Goodlatte offered an amendment to Section 2 of the bill that would extend the Internet tax moratorium for eight years and would allow the grandfather exceptions to expire in four years. This amendment passed by a vote of 20 to 18.

However, there was a motion to reconsider Mr. Goodlatte's eight year extension amendment. This motion passed on a straight party line vote. On the revote of Mr. Goodlatte's eight year extension amendment, it failed 17 to 22 with only one Democrat voting in favor.

According to the Supplemental Views of the Committee report, "despite these heavy-handed tactics, we support the underlying legislation because any extension of the Internet Tax Freedom Act is better than no extension."

SUMMARY

H.R. 3678, as amended, extends the internet tax moratorium, as well as the grandfather exceptions, until November 1, 2014.

This legislation establishes the definition of "Internet access" to be a service that enables users to connect to the Internet. This definition will be used beginning November 1, 2007.

**Note: According to Committee Republicans, “this definition ensures that states can no longer tax the acquisition of the Internet backbone, and that companies that provide Internet access cannot avoid taxes on otherwise taxable services, such as television or telephone, simply by bundling those services with Internet access.”*

This legislation contains a provision that ensures that Internet service providers are not exempt from State taxes on commercial activity, gross receipts, taxable margin, or gross income of a business as a result of the enactment of H.R. 3678.

Under this legislation, States that have enacted legislation to repeal the State’s taxes on Internet access more than 24 months prior to the date of enactment the grandfather provision expires.

COST

The Congressional Budget Office (CBO) did not have cost estimate for the Senate-passed version of H.R. 3678 available at the time of publication.

STAFF CONTACT

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