A taxing situation for shippers

Tax bill aimed at online businesses could hit logistics industry

by Perry A. Trunick

The Business Activities Tax Simplification Act currently before Congress (H.R. 1956) could be a “costly speed bump in interstate commerce,” says Jack Boyd, president of site selection consulting firm The Boyd Company (www.theboydcompany.com). It could change the “tipping point” where companies decide to outsource logistics or operate their own private warehouse, and it could affect which states are considered in a siting decision, Boyd predicts.

There are limits on how much states can regulate interstate commerce, but the U.S. Supreme Court says the U.S. Congress can allow states to tax interstate commerce. The new bill, H.R. 1956, could subject shippers to more state taxes.

Typically, companies with no physical operations in a state are not subject to state taxes related to their business activities there. In its present form, H.R. 1956 says that a physical presence is established by leasing or owning tangible personal property in the state for more than 21 days, observes the International Warehouse Logistics Association (IWLA) (www.iwla.com). That could mean a company using a public warehouse or 3PL could be deemed to have a physical presence by virtue of the inventory the third party holds and/or distributes on the company’s behalf.

IWLA is pushing for an exemption from the rule for “tangible personal property held in a public warehouse for distribution in interstate commerce.”

According to Boyd, a site selection consultant for the past 30 years, third-party warehousing has seen phenomenal growth in recent years. The site tax could have a serious impact on the viability of the 3PL providers, Boyd believes, because it could make those companies and their customers—the target of states wishing to extend their taxing authority to out-of-state companies. Typically, companies with no-physical operations in a state are not subject to state taxes related to their business activities there.

The bill is intended to deal with state tax authorities’ issues with the online economy, says Pat O’Connor, Washington counsel for the IWLA. For financial services companies and similar service-based companies doing business over the Internet, the 21-day physical presence standard is no problem. But for companies engaged in physical movement of goods in interstate commerce, the 21-day test easily establishes a presence.

Discussions with Congressional staffs yielded an interpretation that the goods themselves were not the test but a relationship with a public warehouse that

Do you have 3PL relationships in states where you have no other presence?

Yes .......................... 73%
No ............................. 27%
Source: logisticstoday.com

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Is your supply chain at risk?

Supply chain decisions require an intense focus on risk, cost and revenue

by Helen L. Richardson

The first step in managing risk is identifying where a company is at risk. The tendency for most companies is to think of risk in a fairly narrow context, suggests David Cross, a professor at Michigan State University (www.msu.edu). He believes companies need to be aware of the risk factors in a broad range of business decisions.

Cross notes forecasting is particularly risky, but investment often can be rewarding. Better forecasts lead to better decisions as std to positioning resources while potentially reducing a company’s need for inventory.

One tool to better forecasting is data warehousing that allows companies to gather information intelligently by running what-if scenarios. For example...

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Tax, from p. 3

The bill passed in a sub-committee in December and will be brought before the full Judiciary Committee says O’Connor. The full committee will likely consider the bill in April or May.

Some regional and metropolitan economic development groups have identified logistics as a target industry, and they may be able to help in negotiating some relief from the state if it is an issue. In the meantime, lobbying efforts are under way to hold off the impact of H.R. 1956, at least as far as the public warehouse/3PL issue is concerned.

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