

Extension of the Internet Tax Freedom Act

Issue: Extension of the Internet Tax Freedom Act.

NACo Policy: NACo supports the redefinition of the term “Internet Access”, retention of the existing language protecting access taxes imposed before 1998, and a temporary four-year extension of the revised moratorium.

Background: “Be Clear, Be Flexible, Do No Harm.” These are the hallmarks of our position on the ITFA extension. The issues for counties is whether Congress can preempt local taxes, and whether new services offered over the Internet would be subject to local tax, or protected from tax by the moratorium.

The Internet of 1998 was a quite different place than the Internet of 2007. It was an all “dial-up” world dominated by America Online. The definition of Internet access was written in such a way as to protect the suite of content America Online was providing to their dial-up customers. This included news, shopping, and communities of interest.

Virtually all of the content users access today over the Internet was not available on freestanding websites in 1998. You had to use America Online. The term “Internet Access” of 1998 is not Internet access today. There is a whole range of services and content available over the Internet today that were not even contemplated in 1998. Communities of interest like *My Space* and *Facebook* and *YouTube* were not even a glimmer in anyone’s brains.

By taking the simple and expedient road to extending the moratorium permanently, the sponsors of a permanent extension lock in a bad definition of Internet access, and they preempt states that have had access taxes since before 1998.

Senators Carper, Alexander, et al. take a different approach. Rather than take a “shot gun” approach to defining Internet access, they use a “rifle shot” approach to defining today’s Internet access. They are clear that what is covered by the moratorium is a customer’s ability to access the Internet regardless of the technology – the very means by which an individual accesses content on the Web. The definition is clear and precise. (“Be Clear”) It specifically exempts email, instant messaging and limited website space from taxes. Their bill, S. 1453 would protect those states with access taxes before 1998. (“Do No Harm”)

Most importantly, S.1453 is temporary (“Be Flexible”). Just as we could not contemplate the Internet of 2007 and the many ways we access content today – dial-up, DSL, cable modem, BlackBerrys, cell phones, Broadband over Power Line, WiFi and WiMax – we cannot be sure how we will be doing so in the future. By extending the moratorium temporarily, we can revisit the emerging technologies in a few years and make better decisions then.

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