PROTECT COUNTY REVENUES BY OPPOSING ATTEMPTS TO CREATE PREFERENTIAL TAX TREATMENT OF PARTICULAR INDUSTRIES

ACTION NEEDED: Contact your House and Senate members and urge them to oppose legislation that would grant certain industries preferential tax treatment and threaten the fiscal health of local governments.

BACKGROUND: In recent years, a growing number of industries have actively urged Congress to preempt state and local government taxing authority of their particular business. Representatives from the wireless, rental car and online travel industries are asking Congress to restrict the ability of state and local governments to decide their own tax classifications for businesses. While local taxing authority and practices differ by state, local governments tailor their tax policy by accounting for the sources of revenue available and the needs and desires of their residents. If preferential tax laws are enacted according to industry wishes, state and local governments would essentially be forced to impose the same tax rate for every industry and every service. This would severely impact revenues for local services and damage the existence of independent state and local taxation authority in our system of federalism.

Examples of legislation introduced in previous sessions of Congress that would preempt state and local taxing authority include: The Wireless Tax Fairness Act of 2013 (S. 1235, H.R. 2309) which would have prohibited state and local governments from imposing any new “discriminatory” taxes on wireless service providers and property; The End Discriminatory State Taxes for Automobile Renters Act of 2013 (H.R. 2543), which would preempted state and local governments’ ability to impose “discriminatory” taxes on automobile rentals and property related to renting automobiles; and The Digital Goods and Services Tax Fairness Act of 2013 (S. 1364, H.R. 3724), which would have regulated state and local governments’ taxation of downloaded music, movies and online services.

WIRELESS INDUSTRY KEY ISSUES:

- A study released by NACo and other national local government associations disputes the telecommunications industry’s argument that it is subject to a greater tax burden than general businesses nationwide. The industry unfairly mixes taxes with user fees and fails to disclose that telecommunications companies pay significantly lower corporate income taxes than other businesses.

- Arguments that current tax policies have stymied the growth of the wireless industry are undercut by data that demonstrates otherwise. In mid-year 2005, there were only 194 million wireless subscribers, representing 66

QUICK FACTS

- Several industries like wireless, rental car and online travel companies have sought legislation that would preempt state and local taxing authority by imposing tax rate limits.

- As of December 2012, there were approximately 326.4M wireless subscriber connections, compared to only 55.3M in 1997, countering the argument that state and local tax policies are hurting the industry.

- Between $275 and $400 million is lost each year by state and local governments due to the misleading practice of online travel companies of remitting taxes to state and local governments based on the lower wholesale rate negotiated with hotels rather than the rate charged to customers.

- CBO estimated that a prior version of legislation to regulate the state and local taxation of digital goods and services would cost state and local governments $3 billion in the first full year of enactment and at least that amount in subsequent years.
percent of the nation’s total population. But by mid-year 2010, there were over 292 million cell phone subscribers in the U.S., representing 93 percent of the nation’s total population.

- State and local taxes of wireless services are not an obstacle to wireless broadband deployment – it is the broader economics of the wireless communications industry that is the reason for slower (or non-existent) deployment in rural areas. Providers target areas of deployment where they will receive the greatest return on their investment – areas with dense population that will lead to greater penetration and higher revenues per mile of construction.

RENTAL CAR INDUSTRY KEY ISSUES:

- Rental car taxes may be placed on cars rented from airport locations that are then used for capital improvements and tourism campaigns that directly benefit the rental car companies themselves.

- Revenue collected may also go towards a variety of government services and programs, including infrastructure development, public safety and emergency services that benefit areas in and around airports.

ONLINE TRAVEL INDUSTRY KEY ISSUES:

- Online travel companies such as Expedia and Travelocity purchase room rentals from hotels at wholesale rates. The companies then sell those same room rentals to customers at a higher retail rate. Many jurisdictions became aware that the online travel companies chose to calculate the state and local hotel occupancy tax using the wholesale rate rather than the retail rate paid by the customer. Online travel companies have sought legislation that would allow them to continue this misleading practice, which results in lower taxes collected by state and local jurisdictions for rooms booked online rather than directly with a hotel and without cost savings to consumers.

- State and local governments are estimated to be losing $275 million to $400 million in revenue each year because of this practice.

- Many counties use this revenue for infrastructure and public safety needs, as well as for programs to boost local tourism.

DIGITAL GOODS AND SERVICES KEY ISSUES:

- The Digital Goods and Services Tax Fairness Act is being pushed by companies engaged in the growing area of consumer and business purchases of goods and services like downloaded music and movies, online photo storage and payroll processing.

- Proponents of the bill claim it is necessary to ban multiple and discriminatory taxes on digital goods and services even though no evidence has been presented thus far that demonstrates state and local governments are engaging in this practice.

- If the legislation ever becomes law, state and local government tax collections would see an immediate and significant reduction. Furthermore, with the increasing shift to online technologies by more types of entertainment, information and business services, the revenue losses would continue to grow over time. For counties, this is much needed revenue that goes towards a variety of essential public services for local communities.
• The Congressional Budget Office (CBO) scored a prior version of the Digital Goods and Services Tax Fairness Act as imposing an unfunded mandate on state and local governments. CBO estimated that the cost in foregone revenues to state and local governments would total more than $3 billion in the first full year of enactment and at least that amount in each subsequent year, far exceeding the threshold established in the Unfunded Mandates Relief Act for intergovernmental mandates ($74 million in 2013, adjusted annually for inflation).

*For further information, contact: Mike Belarmino at 202.942.4254 or mbelarmino@naco.org*

**COMMITTEES OF JURISDICTION:**

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