



MULTISTATE INCOME/FRANCHISE TAX

Idaho enacts law to protect Idaho businesses from taxation by other jurisdictions

Tax Alert

Overview

On March 29, 2022, Idaho's Governor signed [House Bill 677](#) (H.B. 677) into law. Effective upon signage, H.B. 677 provides that no out-of-state taxing entities may impose tax on Idaho businesses for conducting sales in Idaho between Idaho businesses and nonresidents physically present in the state.

This Tax Alert summarizes some of the provisions of H.B. 677.

Idaho H.B. 677

H.B. 677 states in section 1 that “[i]t is the intent of the Legislature to protect the citizens of Idaho from the overreach of out-of-state taxing entities.” The bill goes on to explain that some states have passed or contemplated passing taxes on businesses that are not located within their own borders, such as Oregon did with the Oregon Corporate Activity Tax (“CAT”).

H.B. 677 states that the Oregon Department of Revenue takes the position that the Oregon CAT can be imposed on an Idaho business selling an item within the boundaries of Idaho if the purchaser is an Oregon resident physically present in Idaho during the sale. H.B. 677 further states that the extension of the Oregon CAT to Idaho businesses based on a sale that took place in Idaho to an Oregon resident is an unwarranted and unsupported extension of the holding in *South Dakota v. Wayfair* [*sic*], violates the requirements of the Commerce Clause and the Due Process Clause of the United States Constitution, and is not acceptable to the sovereign State of Idaho.”

As a result, H.B. 677 provides that

- No out-of-state taxing entities may impose tax on an Idaho business for conducting sales or other business taking place within Idaho between an Idaho business and a nonresident who is physically present in Idaho while engaging in the business transaction.

- Any attempt to tax an Idaho business based on a sale in Idaho between an Idaho business and a nonresident physically in the state is a violation of the United States Constitution, is null and void, and shall not be enforced in Idaho.
- Out-of-state taxing entity is defined as another state or territory of the United States, or any governmental subdivision thereof, or any foreign nation or government, and does not include the United States government.

If you have any questions about this new law, reach out to one of our Idaho specialists, who will continue to monitor any future developments.

Get in touch

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