TechAmerica Tax Agenda

A competitive tax policy is critical for American technology companies to thrive in the United States and effectively compete in a global economy. Because of the innovative nature of tech companies and the incredible products TechAmerica members create, it is easy to forget that in order to succeed these businesses require a level playing field in domestic and international tax issues.

Our global members are constrained by an outdated and complex federal tax code that is desperately in need of overhaul to reflect the dynamic evolution of global American businesses. Online companies and users of e-commerce platforms are finding new ways to deliver products and services but face scores of different tax laws in states and other taxing jurisdictions across the country. According to the Tax Foundation, there are over 9,600 tax jurisdictions across the U.S. Our members are concerned with the complexities of the current tax codes and the ever-increasing costs associated with compliance with local, state and federal taxing jurisdictions.

1. Corporate Tax Reform

Our system of corporate taxation puts U.S. companies at a competitive disadvantage with their global competitors and is in urgent need of an overhaul. The last major tax reform occurred in 1986. While many support reform, Congressional debate continues, and timing for action remains uncertain.

Therefore, during this debate the technology industry must ensure any corporate tax reform proposals treat the technology industry equitably -- both large companies, as well as small and medium-sized businesses. Specifically, TechAmerica recommends the following issues be included in comprehensive corporate tax reform:

- **Lower Corporate Tax Rate.** U.S. companies are burdened with a corporate tax rate that is the highest among OECD (Organization for Economic Co-operation and Development) countries. This high corporate tax rate makes U.S. companies less competitive globally. TechAmerica supports lowering the corporate tax rate to 25%, without increasing taxes on small and medium-sized businesses.

- **Territoriality**. Currently the U.S. is one of a small handful of developed countries that taxes corporate earnings on a global basis. This means that a U.S. company's foreign earnings are subject to U.S. tax when repatriated, increasing the foreign tax rate on these earnings to the U.S. rate. TechAmerica supports enactment of a territorial international tax system that would remove the punitive tax that effectively prevents foreign earnings from being repatriated to the United States.

- **Intellectual Property.** TechAmerica supports tax policy that fosters innovation such as a "patent box" to attract and retain domestic IP development and ownership.

- **CFC Look-through rule.** The territoriality provisions of most other developed countries allow companies based there to structure their foreign operations without the additional home country tax of the sort imposed by the U.S. Subpart F rules. Making the CFC look-through rule permanent (as included in the Discussion Draft Chairman Camp published in the spring of 2014) would allow U.S. based companies to marshal their capital outside the United States in a way that would enable them to compete on a more level playing field with foreign competitors.

- R**epatriation of Profits**. We support legislation that would encourage U.S. based companies to bring profits back into the U.S. at a lower tax rate. This influx of capital back into the U.S. could be used for capital investment to create technology advancement and job growth. Currently, companies are discouraged from bringing profits back into the U.S. because of the high corporate tax rate that would result.

2. Other Federal Tax.

- **R&D Tax Credit.** The R&D tax credit expired at the end of 2013. TechAmerica has repeatedly called for Congress to make the credit permanent. We also urge extending the economic availability of the credit to startup firms, by allowing those startups to offset the credit against payroll tax liability. Startup companies typically do not generate a profit for a number of years and, thus, have no federal income tax liability. This means that the current R&D tax credit is useless to most startup companies, as it can only be offset against federal income tax liability. However, startups do have employees and pay *payroll taxes*. Accordingly, TechAmerica supports reinstating the R&D tax credit, as well as extending its current economic benefits to startups.

- **Bonus Depreciation.** Businesses that invest in certain business property are permitted to depreciate the acquisition cost over a period of years, as determined by the type of property. For 2014, businesses were allowed an additional 50 percent bonus depreciation, thus accelerating the tax benefit allowed for certain property investments; however, this provision has expired for 2015. Bonus depreciation has served to encourage investment and growth by businesses, and has been especially important to small and medium-sized businesses. TechAmerica supports making this provision permanent at the 2014 level.

- **Section 179 Expensing.** This is a very important incentive, as well as a simplification provision, enabling small businesses to make continuing investment in assets – including technology – that improve business operations and profitability, benefitting both small businesses and our overall economy. For 2010 through 2014, the maximum allowable section 179 deduction was $500,000, with a phase-out beginning at $2 million in purchases. For 2015 the limitation has dropped to $25,000 (with a $200,000 phase-out). TechAmerica supports continuation of the 2014 limitation, as adjusted for inflation.

3. Interstate Tax. The multiplicity of state and local tax jurisdictions creates complicated and repetitive compliance issues for all businesses. Some of these problems can be addressed by federal legislation that provides consistent rules across state and local tax jurisdictions:

- **Internet Tax Freedom Act.** The Internet Tax Freedom Act will expire on October 1, 2015. This law bars state and local jurisdictions from taxing Internet access and from imposing discriminatory taxes on Internet sales. TechAmerica supports a permanent extension of this moratorium as provided in H.R. 235, the Permanent Internet Tax Freedom Act, and S. 431, the Internet Tax Freedom Forever Act.

- **"Online" Sales Tax.** In an effort to collect state sales taxes for online (remote) transactions, a number of legislative proposals would require all remote sellers to collect and remit sales taxes for products and services sold from State A into State B., even if the seller in State A has no connection to State B (such as a building, distribution center or employees). TechAmerica opposes such legislation, as we are concerned with the new compliance burden it would impose on all businesses, especially small and medium-sized businesses. Accordingly, TechAmerica opposes legislation such as S. 698, the Marketplace Fairness Act of 2015.

- **Digital Download Tax.** TechAmerica opposes taxes on digital products. However, for those jurisdictions that have opted to impose these taxes, we recognize the need to provide consistency across state borders. The need for consistency is underscored by the potential for increased compliance costs when inconsistent state sales tax laws allow two or more states to assert authority to tax a single transaction. Accordingly, TechAmerica supports legislation such the Digital Goods and Services Tax Fairness Act. This legislation would (i) provide consistency in determining which jurisdiction can tax a transaction, and (ii) denote which party is responsible for collecting and/or paying over the tax to the taxing jurisdiction.

- **Business Activity Tax.** Some states seeking to collect additional tax revenues have begun to assert authority to tax transactions that occur outside their jurisdictional borders. We believe it is fundamentally unfair and burdensome for a state to require a business to collect sales and use taxes when that business has no physical presence in the taxing state. Accordingly, TechAmerica supports legislation such as the Business Activity Tax Simplification Act. This legislation would (i) prohibit state taxation of an out-of-state entity unless such entity has a physical presence in the taxing state, and (ii) expand the federal prohibition against state taxation of interstate commerce to include taxation of out-of-state transactions involving all forms of property (such as intangible personal property and services).

- **Mobile Workforce.** Some states are imposing income taxes on non-residents after very brief work related stays. This makes tax compliance more complicated for individuals and their employers, and deters business-related travel. TechAmerica supports legislation such as S.386, the Mobile Workforce State Income Tax Simplification Act of 2015, to establish national standards for state income taxation of non-residents.

4. State Tax. Past state tax policies have had a positive impact on the many successes of high tech businesses.olicies have had a positive impact on the many successes of highated stays. This ma

- **R&D Tax Credits.** Research and Development tax incentives at the state level encourage more investment by technology companies, helping them to remain globally competitive and to create high paying tech and production jobs. Accordingly, TechAmerica supports the continuation and expansion of those tax policies, such as R&D incentives and sales and use exemptions on manufacturing and R&D equipment.

- **Affiliate Nexus.** TechAmerica opposes tax policies that impose a use tax collection duty on out-of-state retailers by virtue of their business relationships with in-state companies. Not only are these types of policies fraught with legal challenges, they specifically attack the business models of many U.S.-based high tech companies and undermine their ability to remain viable.

- **Taxation of Digital Goods and Services.** Consistent with our support for Digital Goods and Services Tax Fairness Act, TechAmerica calls on states to reject new taxes on electronically transferred digital products and electronically delivered services such as data processing, hosting, and related services. Such a broad expansion of the sales tax base to include electronically transferred goods and services, particularly those that are actually business inputs, is bad public policy and will result in multiple and discriminatory taxation.