

## Income/Franchise:

### Idaho: New Law Seeks to Protect Some Idaho Businesses from Taxation by Other Jurisdictions

H.B. 677, signed by gov. 3/29/22. Among other claims, recently enacted Idaho legislation asserts that the “Oregon Department of Revenue’s extension of its corporate activity tax upon a seller in Idaho based on a sale that took place in Idaho to an Oregon resident in Idaho” is an unwarranted and unsupported extension of the holding in *Wayfair*, violates the requirements of the US Constitution’s Commerce and Due Process Clauses, and “is not acceptable to the sovereign State of Idaho.” In response, the new law provides that:

[URL: https://legislature.idaho.gov/sessioninfo/2022/legislation/H0677/](https://legislature.idaho.gov/sessioninfo/2022/legislation/H0677/)

“[n]o out-of-state taxing entity may tax an Idaho business for conducting sales or other business taking place within the state of Idaho between an Idaho business and a nonresident who is physically present within the state of Idaho while engaging in the business transaction.”

Furthermore, the nexus-related legislation states that any such attempt to tax an Idaho business in contravention of this provision violates the US Constitution, is null and void, and “shall not be enforced in the state of Idaho.” Under the new law, an “out-of-state taxing entity” means another state or territory of the United States, or any governmental subdivision thereof, or any foreign nation or government, but it does not include the US Government. This law is effectively immediately. Please contact us with any questions.

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