U. S. PUBLIC LAW 86-272

There is a general understanding that the Commerce Clause of the U. S. Constitution gives explicit power to Congress to determine the parameters of equitable trade between states. Using the power delegated to it under the Commerce Clause, in 1959, Congress enacted Public Law 86-272 to provide a safe harbor for the protection of multistate sellers from state and local taxation. By enacting this law, Congress established a minimum level of activity that must be sustained before a tax on the net income of non-residents can not be imposed. Under this law, states, or their political subdivisions, have no power to impose a net income tax on the income derived within their territories by any person from interstate commerce:

> If the only business activities within such state[s] by or on behalf of such person during such taxable year are either, or both, of the following: (1) the solicitation of orders by such person, or his representative, in such state[s] for sales of tangible personal property, which orders are sent outside the state for approval or rejection, and, if approved, are filled by shipment or delivery from a point outside the state[s]; and (2) the solicitation of orders by such person, or his representative, in such state[s] in the name of or for the benefit of a prospective customer of such person, if orders by such customer to such person to enable such customer to fill orders resulting from such solicitation are orders described in paragraph (1). (15 USCS § 381)