

cial to proceed in State court, or take other enforcement actions, on the basis of an alleged violation of local or other law.

**(d) Persons dealing in tobacco products**

Any person who holds a permit under section 5712 of title 26 (regarding permitting of manufacturers and importers of tobacco products and export warehouse proprietors) may bring an action in an appropriate United States district court to prevent and restrain violations of this chapter by any person other than a State, local, or tribal government.

**(e) Notice**

**(1) Persons dealing in tobacco products**

Any person who commences a civil action under subsection (d) shall inform the Attorney General of the United States of the action.

**(2) State, local, and tribal actions**

It is the sense of Congress that the attorney general of any State, or chief law enforcement officer of any locality or tribe, that commences a civil action under this section should inform the Attorney General of the United States of the action.

**(f) Public notice**

**(1) In general**

The Attorney General of the United States shall make available to the public, by posting information on the Internet and by other appropriate means, information regarding all enforcement actions brought by the United States, or reported to the Attorney General of the United States, under this section, including information regarding the resolution of the enforcement actions and how the Attorney General of the United States has responded to referrals of evidence of violations pursuant to subsection (c)(2).

**(2) Reports to Congress**

Not later than 1 year after March 31, 2010, and every year thereafter until the date that is 5 years after March 31, 2010, the Attorney General of the United States shall submit to Congress a report containing the information described in paragraph (1).

(Oct. 19, 1949, ch. 699, §4, as added Pub. L. 111-154, §2(e), Mar. 31, 2010, 124 Stat. 1101.)

PRIOR PROVISIONS

A prior section 378, act Oct. 19, 1949, ch. 699, §4, as added Aug. 9, 1955, ch. 695, §1, 69 Stat. 628, which provided U.S. district courts with jurisdiction to prevent and restrain violations of this chapter, was repealed, effective on the date that is 90 days after March 31, 2010, by Pub. L. 111-154, §§2(e), 6, Mar. 31, 2010, 124 Stat. 1101, 1110.

EFFECTIVE DATE

Section effective on the date that is 90 days after March 31, 2010, see section 6 of Pub. L. 111-154, set out as an Effective Date of 2010 Amendment note under section 375 of this title.

**CHAPTER 10B—STATE TAXATION OF INCOME FROM INTERSTATE COMMERCE**

SUBCHAPTER I—NET INCOME TAXES

Sec.  
381. Imposition of net income tax.

Sec.  
382. Assessment of net income taxes.  
383. "Net income tax" defined.  
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SUBCHAPTER II—DISCRIMINATORY TAXES

391. Tax on or with respect to generation or transmission of electricity.

SUBCHAPTER I—NET INCOME TAXES

**§ 381. Imposition of net income tax**

**(a) Minimum standards**

No State, or political subdivision thereof, shall have power to impose, for any taxable year ending after September 14, 1959, a net income tax on the income derived within such State by any person from interstate commerce if the only business activities within such State 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 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; and

(2) the solicitation of orders by such person, or his representative, in such State 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).

**(b) Domestic corporations; persons domiciled in or residents of a State**

The provisions of subsection (a) shall not apply to the imposition of a net income tax by any State, or political subdivision thereof, with respect to—

(1) any corporation which is incorporated under the laws of such State; or

(2) any individual who, under the laws of such State, is domiciled in, or a resident of, such State.

**(c) Sales or solicitation of orders for sales by independent contractors**

For purposes of subsection (a), a person shall not be considered to have engaged in business activities within a State during any taxable year merely by reason of sales in such State, or the solicitation of orders for sales in such State, of tangible personal property on behalf of such person by one or more independent contractors, or by reason of the maintenance, of an office in such State by one or more independent contractors whose activities on behalf of such person in such State consist solely of making sales, or soliciting orders for sales, or tangible personal property.

**(d) Definitions**

For purposes of this section—

(1) the term "independent contractor" means a commission agent, broker, or other independent contractor who is engaged in selling, or soliciting orders for the sale of, tangible personal property for more than one principal and who holds himself out as such in the regular course of his business activities; and