

117TH CONGRESS
1ST SESSION

S. 1887

To amend title 4 of the United States Code to limit the extent to which States may tax the compensation earned by nonresident telecommuters and other multi-State workers.

IN THE SENATE OF THE UNITED STATES

MAY 27, 2021

Mr. BLUMENTHAL (for himself, Ms. HASSAN, Mrs. SHAHEEN, and Mr. MURPHY) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title 4 of the United States Code to limit the extent to which States may tax the compensation earned by nonresident telecommuters and other multi-State workers.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Multi-State Worker
5 Tax Fairness Act of 2021”.

1 **SEC. 2. LIMITATION ON STATE TAXATION OF COMPENSA-**
 2 **TION EARNED BY NONRESIDENT TELECOM-**
 3 **MUTERS AND OTHER MULTI-STATE WORK-**
 4 **ERS.**

5 (a) IN GENERAL.—Chapter 4 of title 4, United
 6 States Code, is amended by adding at the end the fol-
 7 lowing:

8 **“§ 127. Limitation on State taxation of compensation**
 9 **earned by nonresident telecommuters**
 10 **and other multi-State workers**

11 “(a) IN GENERAL.—In applying its income tax laws
 12 to the compensation of a nonresident individual, a State
 13 may deem such nonresident individual to be present in or
 14 working in such State for any period of time only if such
 15 nonresident individual is physically present in such State
 16 for such period and such State may not impose non-
 17 resident income taxes on such compensation with respect
 18 to any period of time when such nonresident individual
 19 is physically present in another State.

20 “(b) DETERMINATION OF PHYSICAL PRESENCE.—
 21 For purposes of determining physical presence, no State
 22 may deem a nonresident individual to be present in or
 23 working in such State on the grounds that—

24 “(1) such nonresident individual is present at
 25 or working at home for convenience, or

1 “(2) such nonresident individual’s work at
2 home or office at home fails any convenience of the
3 employer test or any similar test.

4 “(c) DETERMINATION OF PERIODS OF TIME WITH
5 RESPECT TO WHICH COMPENSATION IS PAID.—For pur-
6 poses of determining the periods of time with respect to
7 which compensation is paid, no State may deem a period
8 of time during which a nonresident individual is physically
9 present in another State and performing certain tasks in
10 such other State to be—

11 “(1) time that is not normal work time unless
12 such individual’s employer deems such period to be
13 time that is not normal work time,

14 “(2) nonworking time unless such individual’s
15 employer deems such period to be nonworking time,
16 or

17 “(3) time with respect to which no compensa-
18 tion is paid unless such individual’s employer deems
19 such period to be time with respect to which no com-
20 pensation is paid.

21 “(d) DEFINITIONS.—As used in this section—

22 “(1) COMPENSATION.—The term ‘compensa-
23 tion’ means the salary, wages, or other remuneration
24 earned by an individual for personal services per-

1 formed as an employee or as an independent con-
2 tractor.

3 “(2) EMPLOYEE.—The term ‘employee’ means
4 an employee as defined by the State in which the
5 nonresident individual is physically present and per-
6 forming personal services for compensation.

7 “(3) EMPLOYER.—The term ‘employer’ means
8 the person having control of the payment of an indi-
9 vidual’s compensation.

10 “(4) INCOME TAX.—The term ‘income tax’ has
11 the meaning given such term by section 110(c).

12 “(5) INCOME TAX LAWS.—The term ‘income
13 tax laws’ includes any statutes, regulations, adminis-
14 trative practices, administrative interpretations, and
15 judicial decisions.

16 “(6) NONRESIDENT INDIVIDUAL.—The term
17 ‘nonresident individual’ means an individual who is
18 not a resident of the State applying its income tax
19 laws to such individual.

20 “(7) STATE.—The term ‘State’ means each of
21 the several States (or any subdivision thereof), the
22 District of Columbia, and any territory or possession
23 of the United States.

24 “(e) NO INFERENCE.—Nothing in this section shall
25 be construed as bearing on—

1 “(1) any tax laws other than income tax laws,

2 “(2) the taxation of corporations, partnerships,
3 trusts, estates, limited liability companies, or other
4 entities, organizations, or persons other than non-
5 resident individuals in their capacities as employees
6 or independent contractors,

7 “(3) the taxation of individuals in their capaci-
8 ties as shareholders, partners, trust and estate
9 beneficiaries, members or managers of limited liabil-
10 ity companies, or in any similar capacities, and

11 “(4) the income taxation of dividends, interest,
12 annuities, rents, royalties, or other forms of un-
13 earned income.”.

14 (b) CLERICAL AMENDMENT.—The table of sections
15 of such chapter 4 is amended by adding at the end the
16 following new item:

“127. Limitation on State taxation of compensation earned by nonresident tele-
commuters and other multi-State workers.”.

17 (c) EFFECTIVE DATE.—The amendments made by
18 this section shall take effect on the date of the enactment
19 of this Act.

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