

Mobile Workforce State Income Tax Fairness and Simplification Act of 2007 (Introduced in House)

HR 3359 IH

110th CONGRESS
1st Session
H. R. 3359

To limit the authority of States and localities to tax certain income of employees for employment duties performed in other States and localities.

IN THE HOUSE OF REPRESENTATIVES
August 3, 2007

Mr. JOHNSON of Georgia (for himself and Mr. CANNON) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To limit the authority of States and localities to tax certain income of employees for employment duties performed in other States and localities.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the `Mobile Workforce State Income Tax Fairness and Simplification Act of 2007'.

SEC. 2. LIMITATIONS ON STATE AND LOCALITY WITHHOLDING AND TAXATION OF EMPLOYEE INCOME.

(a) In General- No part of the wages or other remuneration paid to an employee who performs duties in more than one State or locality shall be subject to the income tax laws of any State or locality other than--

- (1) the State or locality of the employee's residence; and
- (2) the State or locality in which the employee is physically present performing duties for more than 60 days during the calendar year in which the income is taxed.

(b) Wages or Other Remuneration- Wages or other remuneration paid in any calendar year are not subject to State or locality income tax withholding and reporting unless the employee is subject to income tax under subsection (a). Income tax withholding and reporting under subsection (a)(2) shall apply to wages or other remuneration paid as of the commencement date of duties in the State or locality during the calendar year.

(c) Operating Rules- For purposes of determining an employer's State income tax withholding and information return obligations--

(1) an employer may rely on an employee's determination of the time expected to be spent by such employee in the States or localities in which the employee will perform duties absent--

(A) actual knowledge of fraud by the employee in making the estimate; or

(B) collusion between the employer and the employee to evade tax;

(2) if records are maintained by an employer recording the location of an employee for other business purposes, such records shall not preclude an employer's ability to rely on an employee's determination as set forth in paragraph (1); and
(3) notwithstanding paragraph (2), if an employer, at its sole discretion, maintains a time and attendance system which tracks where the employee performs duties on a daily basis, data from the time and attendance system shall be used instead of the employee's determination as set forth in paragraph (1).

(d) Definitions and Special Rules- For purposes of this Act:

(1) DAY- An employee will be considered physically present and performing duties in a State or locality for a day if the employee performs more than 50 percent of the employee's employment duties in such State or locality for such day.

(2) EMPLOYEE- The term `employee' shall be defined by the State or locality in which the duties are performed, except that the term `employee' shall not include a professional athlete, professional entertainer, or certain public figures.

(3) PROFESSIONAL ATHLETE- The term `professional athlete' means a person who performs services in a professional athletic event, provided that the wages or other remuneration are paid to such person for performing services in his or her capacity as a professional athlete.

(4) PROFESSIONAL ENTERTAINER- The term `professional entertainer' means a person who performs services in the professional performing arts, provided that the wages or other remuneration are paid to such person for performing services in his or her capacity as a professional entertainer.

(5) CERTAIN PUBLIC FIGURES- The term `certain public figures' means persons of national prominence who perform services for wages or other remuneration on a per-event basis, provided that the wages or other remuneration are paid to such person for services provided at a discrete event in the form of a speech, similar presentation or personal appearance.

(6) EMPLOYER- The term `employer' has the meaning given such term in section 3401(d) of the Internal Revenue Code of 1986 (26 U.S.C. 3401(d)) or shall be defined by the State or locality in which the duties are performed.

(7) LOCALITY- The term `locality' means any political subdivision, agency, or instrumentality of a State.

(8) STATE- The term `State' means each of the several States (or any subdivision thereof), or any territory or possession of the United States.

(9) TIME AND ATTENDANCE SYSTEM- The term `time and attendance system' means a system where the employee on a contemporaneous basis records his work location for every day worked and the employer uses this data to allocate the employee's wages between all taxing jurisdictions in which the employee performs duties.

(10) WAGES OR OTHER REMUNERATION- The term `wages or other remuneration' shall be defined by the State or locality in which the employment duties are performed.