

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.

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## 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

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## 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 capac-  
8 ities 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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