

117TH CONGRESS  
1ST SESSION

# H. R. 4267

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 HOUSE OF REPRESENTATIVES

JUNE 30, 2021

Mr. HIMES (for himself, Mr. PAPPAS, Ms. KUSTER, and Mrs. HAYES) introduced the following bill; which was referred to the Committee on the Judiciary

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

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

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

7           “(4) NONRESIDENT INDIVIDUAL.—The term  
8           ‘nonresident individual’ means an individual who is  
9           not a resident of the State applying its income tax  
10          laws to such individual.

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

15          “(6) EMPLOYER.—The term ‘employer’ means  
16          the person having control of the payment of an indi-  
17          vidual’s compensation.

18          “(7) COMPENSATION.—The term ‘compensa-  
19          tion’ means the salary, wages, or other remuneration  
20          earned by an individual for personal services per-  
21          formed as an employee or as an independent con-  
22          tractor.

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

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

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

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

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

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

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

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

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