

109TH CONGRESS
1ST SESSION

H. R. 2558

To amend title 4 of the United States Code to prohibit the double taxation of telecommuters and others who work at home.

IN THE HOUSE OF REPRESENTATIVES

MAY 23, 2005

Mr. SHAYS (for himself, Ms. DELAURO, and Mr. TOM DAVIS of Virginia) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 4 of the United States Code to prohibit the double taxation of telecommuters and others who work at home.

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 “Telecommuter Tax
5 Fairness Act of 2005”.

1 **SEC. 2. PROHIBITION ON DOUBLE TAXATION OF TELECOM-**
2 **MUTERS.**

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

6 **“§ 127. Prohibition on double taxation of telecom-**
7 **muters and others who work at home**

8 “(a) PHYSICAL PRESENCE REQUIRED.—

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

19 “(2) DETERMINATION OF PHYSICAL PRES-
20 ENCE.—For purposes of determining physical pres-
21 ence, no State may deem a nonresident individual to
22 be present in or working in such State on the
23 grounds that such nonresident individual is present
24 at or working at home for the nonresident individ-
25 ual’s convenience.

26 “(b) DEFINITIONS.—As used in this section—

1 “(1) STATE.—The term ‘State’ includes any po-
2 litical subdivision of a State, the District of Colum-
3 bia, and the possessions of the United States.

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

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

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

14 “(5) SALARY.—The term ‘salary’ means the
15 compensation, wages, or other remuneration earned
16 by an individual for personal services performed as
17 an employee or as an independent contractor.

18 “(c) NO INFERENCE.—Nothing in this section shall
19 be construed as bearing on—

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

21 “(2) the taxation of corporations, partnerships,
22 trusts, estates, limited liability companies, or other
23 entities, organizations, or persons other than non-
24 resident individuals in their capacities as employees
25 or independent contractors,

