

## Union Calendar No.

114<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 2315

[Report No. 114-]

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

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### IN THE HOUSE OF REPRESENTATIVES

MAY 14, 2015

Mr. BISHOP of Michigan (for himself, Mr. JOHNSON of Georgia, Mr. SMITH of Texas, Mr. WALKER, Mr. ROSS, Mr. MURPHY of Florida, Mr. CICILLINE, Mr. CHAFFETZ, and Mr. SWALWELL of California) introduced the following bill; which was referred to the Committee on the Judiciary

JUNE --, 2015

Committed to the Committee of the Whole House on the State of the Union,  
and ordered to be printed

# **A BILL**

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

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 “Mobile Workforce  
5 State Income Tax Simplification Act of 2015”.

6 **SEC. 2. LIMITATIONS ON STATE WITHHOLDING AND TAX-**  
7 **ATION OF EMPLOYEE INCOME.**

8 (a) IN GENERAL.—No part of the wages or other re-  
9 munerations earned by an employee who performs employ-  
10 ment duties in more than one State shall be subject to  
11 income tax in any State other than—

12 (1) the State of the employee’s residence; and

13 (2) the State within which the employee is  
14 present and performing employment duties for more  
15 than 30 days during the calendar year in which the  
16 wages or other remuneration is earned.

17 (b) WAGES OR OTHER REMUNERATION.—Wages or  
18 other remuneration earned in any calendar year shall not  
19 be subject to State income tax withholding and reporting  
20 requirements unless the employee is subject to income tax  
21 in such State under subsection (a). Income tax with-  
22 holding and reporting requirements under subsection  
23 (a)(2) shall apply to wages or other remuneration earned  
24 as of the commencement date of employment duties in the  
25 State during the calendar year.

1 (c) OPERATING RULES.—For purposes of deter-  
2 mining penalties related to an employer’s State income tax  
3 withholding and reporting requirements—

4 (1) an employer may rely on an employee’s an-  
5 nual determination of the time expected to be spent  
6 by such employee in the States in which the em-  
7 ployee will perform duties absent—

8 (A) the employer’s actual knowledge of  
9 fraud by the employee in making the determina-  
10 tion; or

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

13 (2) except as provided in paragraph (3), if  
14 records are maintained by an employer in the reg-  
15 ular course of business that record the location of an  
16 employee, such records shall not preclude an employ-  
17 er’s ability to rely on an employee’s determination  
18 under paragraph (1); and

19 (3) notwithstanding paragraph (2), if an em-  
20 ployer, at its sole discretion, maintains a time and  
21 attendance system that tracks where the employee  
22 performs duties on a daily basis, data from the time  
23 and attendance system shall be used instead of the  
24 employee’s determination under paragraph (1).

1 (d) DEFINITIONS AND SPECIAL RULES.—For pur-  
2 poses of this Act:

3 (1) DAY.—

4 (A) Except as provided in subparagraph  
5 (B), an employee is considered present and per-  
6 forming employment duties within a State for a  
7 day if the employee performs more of the em-  
8 ployee’s employment duties within such State  
9 than in any other State during a day.

10 (B) If an employee performs employment  
11 duties in a resident State and in only one non-  
12 resident State during one day, such employee  
13 shall be considered to have performed more of  
14 the employee’s employment duties in the non-  
15 resident State than in the resident State for  
16 such day.

17 (C) For purposes of this paragraph, the  
18 portion of the day during which the employee is  
19 in transit shall not be considered in determining  
20 the location of an employee’s performance of  
21 employment duties.

22 (2) EMPLOYEE.—The term “employee” has the  
23 same meaning given to it by the State in which the  
24 employment duties are performed, except that the  
25 term “employee” shall not include a professional

1 athlete, professional entertainer, or certain public  
2 figures.

3 (3) PROFESSIONAL ATHLETE.—The term “pro-  
4 fessional athlete” means a person who performs  
5 services in a professional athletic event, provided  
6 that the wages or other remuneration are paid to  
7 such person for performing services in his or her ca-  
8 pacity as a professional athlete.

9 (4) PROFESSIONAL ENTERTAINER.—The term  
10 “professional entertainer” means a person who per-  
11 forms services in the professional performing arts  
12 for wages or other remuneration on a per-event  
13 basis, provided that the wages or other remuneration  
14 are paid to such person for performing services in  
15 his or her capacity as a professional entertainer.

16 (5) CERTAIN PUBLIC FIGURES.—The term  
17 “certain public figures” means persons of promi-  
18 nence who perform services for wages or other remu-  
19 nation on a per-event basis, provided that the  
20 wages or other remuneration are paid to such person  
21 for services provided at a discrete event, in the na-  
22 ture of a speech, public appearance, or similar event.

23 (6) EMPLOYER.—The term “employer” has the  
24 meaning given such term in section 3401(d) of the  
25 Internal Revenue Code of 1986 (26 U.S.C. 3401(d)),

1 unless such term is defined by the State in which  
2 the employee's employment duties are performed, in  
3 which case the State's definition shall prevail.

4 (7) STATE.—The term “State” means any of  
5 the several States.

6 (8) TIME AND ATTENDANCE SYSTEM.—The  
7 term “time and attendance system” means a system  
8 in which—

9 (A) the employee is required on a contem-  
10 poraneous basis to record his work location for  
11 every day worked outside of the State in which  
12 the employee's employment duties are primarily  
13 performed; and

14 (B) the system is designed to allow the em-  
15 ployer to allocate the employee's wages for in-  
16 come tax purposes among all States in which  
17 the employee performs employment duties for  
18 such employer.

19 (9) WAGES OR OTHER REMUNERATION.—The  
20 term “wages or other remuneration” may be limited  
21 by the State in which the employment duties are  
22 performed.

1 **SEC. 3. EFFECTIVE DATE; APPLICABILITY.**

2 (a) EFFECTIVE DATE.—This Act shall take effect on  
3 January 1 of the 2d year that begins after the date of  
4 the enactment of this Act.

5 (b) APPLICABILITY.—This Act shall not apply to any  
6 tax obligation that accrues before the effective date of this  
7 Act.