

109<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 6167

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

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IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 25, 2006

Mr. CANNON introduced the following bill; which was referred to the  
Committee on the Judiciary

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## 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.

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 Fairness and Simplification Act of  
6        2006”.

1 **SEC. 2. LIMITATIONS ON STATE AND LOCALITY WITH-**  
2 **HOLDING AND TAXATION OF EMPLOYEE IN-**  
3 **COME.**

4 (a) **IN GENERAL.**—No part of the wages or other re-  
5 munerations paid to an employee who performs duties in  
6 more than one State or locality shall be subject to the in-  
7 come tax laws of any State or locality other than—

8 (1) the State or locality of the employee’s resi-  
9 dence; and

10 (2) the State or locality in which the employee  
11 is physically present performing duties for more  
12 than 60 days during the calendar year in which the  
13 income is taxed.

14 (b) **WAGES OR OTHER REMUNERATION.**—Wages or  
15 other remunerations paid in any calendar year are not sub-  
16 ject to State or locality income tax withholding and report-  
17 ing unless the employee is subject to income tax under  
18 subsection (a). Income tax withholding and reporting  
19 under subsection (a)(2) shall apply to wages or other re-  
20 munerations paid as of the commencement date of duties  
21 in the State or locality during the calendar year.

22 (c) **OPERATING RULES.**—For purposes of deter-  
23 mining an employer’s State income tax withholding and  
24 information return obligations—

25 (1) an employer may rely on an employee’s de-  
26 termination of the time expected to be spent by such

1 employee in the States or localities in which the em-  
2 ployee will perform duties absent—

3 (A) actual knowledge of fraud by the em-  
4 ployee in making the estimate; or

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

7 (2) if records are maintained by an employer  
8 recording the location of an employee for other busi-  
9 ness purposes, such records shall not preclude an  
10 employer's ability to rely on an employee's deter-  
11 mination as set forth in paragraph (1).

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

14 (1) DAY.—An employee will be considered phys-  
15 ically present and performing duties in a State or lo-  
16 cality for a day if the employee performs more than  
17 50 percent of the employee's employment duties in  
18 such State or locality for such day.

19 (2) EMPLOYEE.—The term “employee” shall be  
20 defined by the State or locality in which the duties  
21 are performed, except that the term “employee”  
22 shall not include a professional athlete or enter-  
23 tainer.

24 (3) EMPLOYER.—The term “employer” has the  
25 meaning given such term in section 3401(d) of the

1 Internal Revenue Code of 1986 (26 U.S.C. 3401(d))  
2 or shall be defined by the State or locality in which  
3 the duties are performed.

4 (4) LOCALITY.—The term “locality” means any  
5 political subdivision, agency, or instrumentality of a  
6 State.

7 (5) STATE.—The term “State” means each of  
8 the several States (or any subdivision thereof), or  
9 any territory or possession of the United States.

10 (6) WAGES OR OTHER REMUNERATION.—The  
11 term “wages or other remuneration” shall be defined  
12 by the State or locality in which the employment du-  
13 ties are performed.

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