



**Statement of  
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**Before the  
  
U.S. House of Representatives  
Committee on the Judiciary  
Subcommittee on Regulatory Reform, Commercial and  
Antitrust Law**

**Hearing on H.R. 1129  
The Mobile Workforce State Income Tax Simplification Act of 2013**

**The Honorable Spencer Bachus, Chair**

**April 29, 2014**

Chairman Bachus, Ranking Member Johnson, and Members of the Subcommittee, I am Maureen Riehl, Vice President of Government Affairs for the Council On State Taxation, which is more commonly known as COST. I am here today on behalf of COST and the 263-member coalition of supporting organizations and companies, speaking in favor of H.R. 1129.

COST is a non-profit trade association consisting of more than 600 multistate corporations engaged in interstate and international business. COST's objective is to preserve and promote equitable and non-discriminatory state and local taxation of multi-jurisdictional business enterprises.

I would first like to thank Congressman Howard Coble and Ranking Member Johnson for introducing H.R. 1129, The Mobile Workforce State Income Tax Simplification Act of 2013. I appreciate the opportunity to share with you COST's views on the important issues this legislation addresses: personal income taxes imposed on employees who travel away from their resident states for temporary work periods and the associated tax withholding obligations of their employers.

### **Widespread Problem – One Congress has Recognized and Fixed Before**

The problem addressed by H.R. 1129 is not a new one, and it is only growing. The problem affects employees of all kinds who travel for work: small business workers; big business employees; utility and communication workers; retail employees; charity and non-profit employees; teachers; state employees; union workers; federal agency and Congressional staff – and the list goes on, with very few exceptions. Every business day hundreds of thousands of employees across the country are sent by their employers to work in nonresident states. The vast majority of these trips are temporary in nature, whereby the employee conducts business in the nonresident state for a short period of time and then returns to his/her resident state.

States currently have varying and inconsistent standards regarding the requirements:

- for *employees* to file personal income tax returns when traveling to a nonresident state for temporary work periods; and,
- for *employers* to withhold income tax on employees who travel outside of their state of residence for temporary work periods.

Employees who travel outside of their state of residence for business purposes are subject to onerous administrative burdens because, in addition to filing federal and resident state income tax returns, they may also be legally required to file an income tax return in every other state into which they travel, *even if they are there for only one day*.

The patchwork of inconsistent state laws and rules is shown by the map and chart attached as Exhibit A to my testimony. The challenges imposed upon employees to understand these widely divergent rules, track down the appropriate nonresident state forms and actually comply with this multiplicity of state tax rules is nearly insurmountable.

So too, employers are extremely hard pressed to comply with these varying and disparate rules and provide the appropriate nonresident state withholding. As stated earlier, it is important to reiterate that this tax compliance issue affects all employers whose employees travel for work: it is such a burden that Congress has seen fit in the past to pass legislation to protect certain “mobile” employees, such as airline workers and military personnel, to ease the flow of interstate commerce and reduce “red tape” and other administrative burdens.<sup>1</sup>

There is no practical technological solution to this problem, and it creates potential conflict within the workplace. Very few employers, large or small, have the capability to integrate payroll with business operating systems to allow tracking of employees’ whereabouts on a daily basis. Employers who have such capability face further challenges in attempting to use such systems to comply with the states’ non-resident personal income tax withholding requirements. Employers’ compliance with

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<sup>1</sup> 49 U.S.C. 11108, Merchant mariner employees (1983); 49 U.S.C. 40116(f), Air carrier employees (1994); 49 U.S.C. 11502, Railroad employees (1995); 49 U.S.C. 14503, Motor carrier employees (1996); 50 App. U.S.C. 571, Military service members (2009).

disparate state rules is almost exclusively via manual processes. Because of the current lack of uniformity, the costs of automating such systems would be exorbitant in relation to any compliance gains to the various states. Furthermore, compliance challenges can create unproductive tensions in the workplace when employers are forced to “penalize” workers for work-related travel that results in this tax compliance obligation.

### **Simple Solution**

The simple answer to this widespread problem is to legislate a federal threshold period for nonresident filing requirements of thirty days for temporary employee work assignments to nonresident states. **Employees working in nonresident states for thirty or fewer days would remain fully taxable in their resident state for all wages and other remuneration earned** (to the extent the resident state chooses to have a state personal income tax system). The vast majority of employees who travel outside their resident state for employment purposes would fit within this threshold period. To the extent the employee has duties in the nonresident state for an extended period exceeding the thirty day annual threshold, then the employer would have adequate information to provide accurate withholding of wages to the nonresident state, and the employee would be on notice that the state filing rules must be complied with. This uniform rule would greatly ease compliance for all employers subject to state withholding rules and would provide much greater certainty for employees in fulfilling their personal nonresident state filing obligations.

### **Uniform Rules are Needed Now**

While states’ laws addressing nonresident withholding and personal income tax liability have been on the books for many years, resolution of this issue has reached a critical stage for corporations for a number of reasons, most notably the enactment of the Sarbanes-Oxley Act of 2002. Under Section 404 of the Act, company management is required to certify that processes and procedures are in place to comply with applicable laws and regulations, including state tax rules. This

rule, along with a commensurate desire by corporations to be fully compliant with all rules and requirements as part of corporate governance responsibilities, has increased the interest of business in desiring uniformity and simplicity in matters of nonresident state income and withholding laws.

Furthermore, employers have a significant interest in ensuring that employees comply with all state law taxation requirements. COST members are acutely aware of the burdens placed on their employees who travel outside their resident states for business. They have expressed a strong desire to meet their responsibilities as employers by assuring that their employees comply with these burdens. Unfortunately, the current patchwork of state rules makes it extremely difficult to comply fully, and businesses are starting to reduce employee travel in response.

### **A Federal Standard is the Appropriate and Only Solution**

Congress is the appropriate body to create and enact a uniform, federal standard for nonresident taxation. As noted by Professor Walter Hellerstein in *State Taxation: Third Edition*, federal statutory law already “substantially limits states’ power to tax the compensation of nonresident employees engaged in interstate transportation,”<sup>2</sup> and “this resolution avoids subjecting nonresident interstate transportation employees to the demands of the many jurisdictions in which they are constitutionally taxable and thereby removes what may legitimately be regarded as a burden on interstate commerce.”<sup>3</sup> Professor Hellerstein cited these precedents regarding transportation employees as support for his judgment that the 2007 introduction of Mobile Workforce “would constitute an appropriate exercise of congressional power.”<sup>4</sup> The authority of Congress to legislate in the area of nonresident taxation is long-established. In fact, a review of Congressional action in this area demonstrates that this legislation is exactly the kind of remedial action

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<sup>2</sup> *State Taxation*, ¶ 20.05[4][c][i] Thomson Reuters 2012.

<sup>3</sup> *State Taxation*, ¶ 20.05[4][c][ii].

<sup>4</sup> See Testimony of Walter Hellerstein, Before the Subcommittee on Commercial and Administrative Law of the Committee on the Judiciary, U.S. House of Representatives, Nov. 1, 2007 at <http://judiciary.house.gov/hearings/pdf/Hellerstein071101.pdf>.

Congress should undertake to provide “a practical resolution of what can be a thorny administrative problem.”<sup>5</sup>

This legislation would modernize the “rules of the road” for personal income tax obligations among nonresident employees and their employers. The bill enables the resident state to keep a greater percentage of tax, and nonresident states will have a reasonable, minimum trigger date of thirty days when assessing nonresident workers. The personal income tax owed by an employee to his/her home state will still equal 100%; the only difference is how soon and how much of that total will be legally due to another state.

In a limited manner, some states have resolved the issue of nonresident personal income taxation on a regional basis, typically with adjoining states through bilateral reciprocal agreements. This legislation in no way bars these regional reciprocal agreements, and states retain the right to be more generous than the proposed thirty day minimum when deciding if or when to impose obligations on temporary nonresident workers. These bilateral reciprocal agreements are helpful in discrete regional situations, but fall well short of solving a problem that is nationwide in scope.

This is an interstate commerce issue, but its proposed resolution does not harm states’ rights. Conceptually, there is no barrier to the states agreeing, in concert, to adopt a single, national standard governing personal income taxes imposed on nonresidents working in a state for temporary work periods. In fact, in 2011 the Multistate Tax Commission (MTC) adopted a model statute that theoretically could provide the basis for such a national standard. Beginning in 2006, COST and other members of the coalition began working with the MTC and other state officials in an attempt to craft a “state” solution. Unfortunately, in the area of taxation, there are several historically insurmountable hurdles to achieving a simple system through voluntary state action.

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<sup>5</sup> *State Taxation*, ¶ 20.05[4][c][ii].

Model state legislation such as that adopted by the MTC in 2011 faces a fundamental political challenge in every state in which it might be considered: by definition, the legislation, when considered in any one state, does not benefit those employees living in the state or their employers unless and until another state enacts the same law. Even then, the model statute benefits only those employees who reside in a state that has enacted the law and who are traveling to a state that has also enacted the same law (the MTC model statute is based on reciprocity). To date, only one state (North Dakota) has adopted the MTC model, and it does not go into effect unless another state adopts the same language. Thus, for North Dakota employees who travel and their employers, there could be no simplification unless and until other states imposing a personal income tax have adopted the model statute. Furthermore, those states would have to adopt the model statute uniformly; in other words, state-to-state deviations from the model statute would significantly diminish, or completely eliminate, the benefits of the model statute. Finally, even if it were possible to achieve voluntary state action, it would require many years, and perhaps decades, to accomplish.

There is not a single example in the history of state taxation in this country to suggest that voluntary adoption by all the states of a model tax statute to promote simplification is achievable.<sup>6</sup> Fast-forward eight years to 2014, and the lack of adoption of the MTC model by other states speaks for itself. As a result, we believe the only way to secure a nationwide resolution of the issues is to provide a uniform and simple set of rules established under federal guidelines, such as that set forth in H.R. 1129.

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<sup>6</sup> There are examples of tax simplification resulting from federal intervention in areas where discussion among the states was already underway. The taxation of motor fuel used by interstate motor carriers is one such example. The International Fuel Tax Agreement (IFTA) began as a voluntary state effort in 1983, and in 1984 federal legislation authorized the formation of a working group that ultimately drafted a model statute to cover fuel taxes on interstate motor carriers. By the end of 1990, eight years after the effort began, sixteen states had joined the IFTA. Uniformity, however, was only achieved after the adoption of the Intermodal Surface Transportation Efficiency Act in 1991, where Congress mandated that states join the IFTA by September 30, 1996 or risk loss of certain transportation revenues.

## H.R. 1129 – Explanation of Provisions

First and foremost, H.R. 1129 provides that all wages and other remuneration paid to an employee would be subject to the income tax laws in the state of the employee's residence. In addition, under the legislation wages and other remuneration are also subject to tax in the state in which the employee is present performing duties for more than thirty days in a calendar year, and employers would be subject to commensurate withholding requirements of that nonresident state. The thirty day threshold does not apply to professional athletes, professional entertainers, or certain public figures who, because of their national prominence, are paid on a per-event basis to give speeches or similar presentations. For example, a professional football player would be subject to nonresident state personal income taxes for performance in an athletic event. As another example, a well-known author who is an employee of a speakers' organization would be subject to nonresident state income taxes for making a presentation in a state and receiving compensation based on that event. In both of these cases, their respective employers would be subject to the nonresident state withholding requirements.

An employer may rely on an employee's determination of the time spent in a nonresident state absent knowledge of employee fraud or collusion between the employer and employee. If an employer, however, at its discretion, maintains a time and attendance system specifically designed to track and allocate where employees perform their services for tax purposes, such system must be used instead of the employee's determination.

An employee will be considered present performing duties in a state if the employee performs the preponderance of his or her duties in such state for such day. If an employee performs employment duties in only the employee's resident state and one nonresident state during a single day, such employee will be considered to have performed the preponderance of his or her duties in the nonresident state for such day.

The terms "employee" and "wages or other remuneration" are defined by the state in which the employment duties are performed. These references to state law

protect the prerogatives of the state, as the overall intention of the legislation is to make the least incursion practicable in current state withholding and personal income tax rules and regulations.

### **Impact on State Taxes**

Employees in states with no general personal income tax<sup>7</sup> are burdened by the largest out of pocket costs under the current system, as they are required to pay a nonresident tax without a corresponding resident personal income tax at home. All states that levy a personal income tax provide residents with a credit for nonresident personal income taxes paid to other states up to the resident state tax rate, but for residents in states with no personal income tax, this credit does not apply to other taxes such as property or sales taxes.

For the businesses and employees in states with a personal income tax, at a macro level, the difference between the loss of tax revenue that is currently received by a state from nonresidents is generally balanced by an increase in tax revenue resulting from fewer credits provided to residents for taxes paid to other states. I have included a detailed fiscal impact on state tax receipts and a state-by-state analysis as prepared by Ernst & Young, LLP for legislation originally considered in the 111<sup>th</sup> Congress as Exhibit B to my testimony. While these numbers are pre-recession figures, with the economy still in rebound, we believe it still paints a fairly accurate picture. As noted in the fiscal impact analysis, forty-four states either gain a small amount of revenue or have net reductions in revenue of one hundredth of one percent or less (0.01%). The impact of the legislation results in a minimal redistribution of income taxes between resident and nonresident states, with only a very slight reduction in total income taxes collected by the states. For all fifty states and the District of Columbia combined, the net change is a reduction in revenue of a mere one hundredth of one percent (.01%), which accrues as a net nationwide reduction of \$42 million in overall personal income taxes.

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<sup>7</sup> Alaska; Florida; Nevada; New Hampshire; South Dakota; Tennessee; Texas; Washington State; Wyoming;

Why such a small net reduction in overall personal income taxes? Under H.R. 1129, employees whose work responsibilities in nonresident states are under the thirty day threshold period would experience a reduction in personal income taxes only under the following two circumstances: (1) to the extent the employee's resident state imposes tax at a lower rate than the nonresident state; or (2) when a nonresident state tax is imposed on an employee whose resident state does not also impose a personal income tax.

### **Latest Developments**

During the 112<sup>th</sup> Congress, identical bipartisan legislation<sup>8</sup> to H.R. 1129 was passed on a voice vote by the House Judiciary Committee,<sup>9</sup> and again by voice vote by the full U.S. House of Representatives.<sup>10</sup> Likewise, identical companion legislation has also been introduced in the U.S. Senate, S. 1645, by Senator Sherrod Brown (D-OH) and Senator John Thune (R-SD), and is supported by ten bipartisan cosponsors.

The language in H.R. 1129 reflects nearly eight years of negotiation among representatives of Congress, Congressional staff, state elected and tax department officials and their affiliated groups, employers and employee organizations. From the proponent side, advocates of H.R. 1129 have steadfastly agreed to consider reasonable amendments and have discussed in good faith revisions to a national standard, resulting in at least seven substantive changes to the original version of the legislation since it was first introduced (see Exhibit C). H.R. 1129 represents a carefully crafted balance of employee, employer, and state government interests.

### **Conclusion**

H.R. 1129 addresses a problem that is universally recognized by the state tax community. According to the Federation of Tax Administrators, "Complying with the

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<sup>8</sup> H.R. 1864 (112<sup>th</sup> Cong., 2012)

<sup>9</sup> On November 17, 2011 (112<sup>th</sup> Cong., 2011)

<sup>10</sup> On May 15, 2012 (112<sup>th</sup> Cong., 2012)

current system is...indeed difficult and probably impractical.”<sup>11</sup> Indeed, one prominent state tax official candidly acknowledged that even he does not comply with current law on his regular travels away from his home state, concluding that “there is widespread noncompliance” currently.<sup>12</sup>

The proposed solution articulated in H.R. 1129 -- a thirty day threshold period and associated operating rules that address both employee liability and employer withholding -- is widely accepted as the appropriate framework to address the problem. In fact, the MTC’s model statute is based on an earlier version of H.R. 1129.<sup>13</sup>

Employees who travel outside of their home states for temporary work periods, and their employers, will remain subject to today’s onerous burdens without Congressional action. Thus, I respectfully request your support for the speedy adoption of H.R. 1129.

I would be pleased to answer any questions you may have. Thank you.

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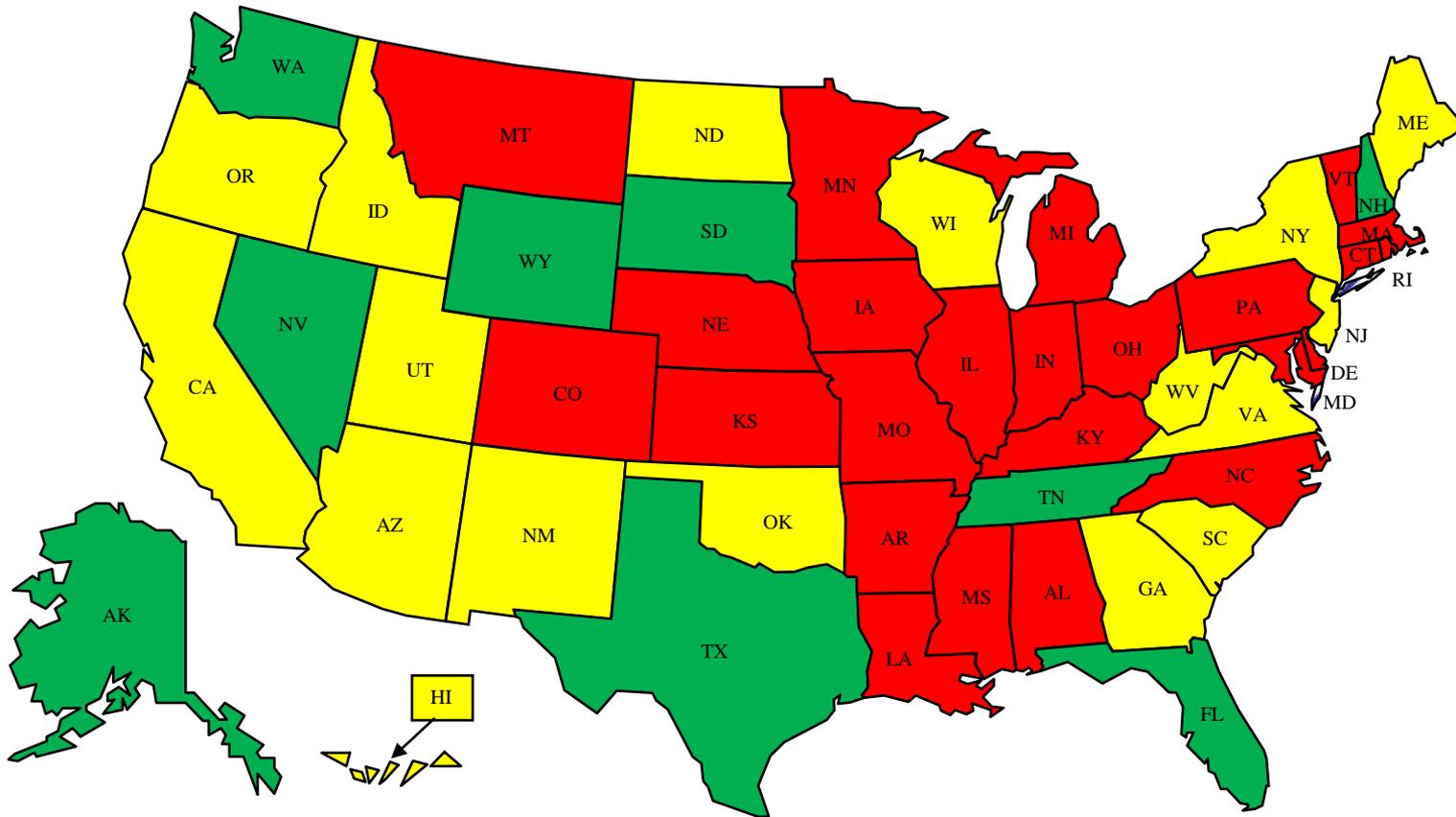
<sup>11</sup> Statement of Harley Duncan before the House of Representatives Committee on the Judiciary, Subcommittee on Commercial and Administrative Law, November 1, 2007.

<sup>12</sup> White, Nicola M., “Many Agreed on Need for Mobile Workforce Tax Uniformity, but Will it Happen?” *State Tax Notes*, August 2, 2010, p. 271.

<sup>13</sup> Multistate Tax Commission: <http://www.mtc.gov/Uniformity.aspx?id=4622>.

# Exhibit A

## Nonresident Personal Income Tax Withholding



### Key

- Nonresident employees subject to tax withholding on *first day* of travel
- Nonresident employees subject to tax withholding after reaching threshold (see Appendix A for details)
- No general personal income tax (or, in the case of Washington, DC, no tax on nonresidents)

— Appendix A —

**Withholding Thresholds**—More than half of the states that have a personal income tax require employers to withhold tax from a nonresident employee’s wages beginning with the *first day* the nonresident employee travels to the state for business purposes. Some personal income tax states (identified on the map with a yellow background) provide for a threshold before requiring tax withholding for nonresident employees. The following chart details these withholding thresholds. Please note that this chart covers *withholding* only; many of these states have a different (and usually lower) standard for imposing tax on nonresidents (*i.e.*, the employee may owe tax even where the employer is not required to withhold tax).

<b>State</b>	<b>No Withholding Required If Nonresident...</b>
Arizona	is in the state for 60 or fewer days in a calendar year
California	earns in-state wages equal to or below “Low Income Exemption Table”
Georgia	is in the state for 23 or fewer days in a calendar year or if less than \$5,000 or 5% of total income is attributable to Georgia
Hawaii	is in the state for 60 or fewer days in a calendar year
Idaho	earns in-state wages less than \$1,000 in a calendar year
Maine	is in the state for 10 or fewer days in a calendar year
New Jersey	earns in-state wages less than the employee’s personal exemption in a calendar year
New Mexico	is in the state for 15 or fewer days in a calendar year
New York	is in the state for 14 or fewer days in a calendar year
North Dakota	is in the state for 20 or fewer days in a calendar year and is a resident of a state that provides similar protections for nonresidents (reciprocal exemption); certain occupations (e.g., professional athletes) not protected
Oklahoma	earns in-state wages less than \$300 in a calendar quarter
Oregon	earns in-state wages less than the employee’s standard deduction
South Carolina	earns in-state wages less than \$800 in a calendar year
Utah	<i>employer</i> does business in the state for 60 or fewer days in a calendar year
Virginia	earns in-state wages less than the employee’s personal exemptions and standard deduction or, if elected by the employee, the employee’s filing threshold
West Virginia	earns in-state wages less than the employee’s personal exemptions
Wisconsin	earns in-state wages less than \$1,500 in a calendar year

**Reciprocal Agreements**—In addition to the thresholds shown above, many states have reciprocal agreements with neighboring states that provide that taxes are paid in (and withheld for) the resident state only. For example, a resident of Virginia who works in Maryland is subject to tax only in Virginia. The converse also applies. In most states with reciprocal agreements, a “certificate of nonresidence” must be filed either with the employer or the nonresident state. A full list of state reciprocal agreements is beyond the scope of this document.

# Exhibit B

## Estimates of State-by-State Impacts of H.R. 1129 / S. 1645 - the Mobile Workforce State Income Tax Simplification Act

This analysis presents state-by-state estimates of the net change in state personal income taxes projected from the impact of the Mobile Workforce State Income Tax Simplification Act, H.R. 1129 / S. 1645, at fiscal year 2008 levels. The net impact figures for each state include two components: 1) the reduction in income tax collections due to the increase in the number of instate days (30 days less a state's current-law day threshold) required before a nonresident employee is subject to income taxation, and 2) the increase in tax collections in resident states due to reduced credits on resident income tax returns for taxes paid by the residents to other states where they work and are taxed as nonresidents.

The bill has the following features that are important determinants of the estimated state income tax impacts:

- A nonresident employee, with limited exceptions, performing employment duties in a state for 30 days or less would not be subject to the nonresident state's personal income tax.
- An employee is considered to be performing employment duties within a state for a day if the preponderance of their employment duties for the day are within a state. If employment duties are performed in a nonresident state and a resident state in the same day, the employee is considered to be performing employment duties in the nonresident state for the day.
- The legislation would not be effective until January 1, 2014, at the earliest.

Table 1 provides state-by-state estimates of the change in net personal income taxes (in millions of dollars) due to the proposal. The net change for all states and the District of Columbia (-\$42 million) is the sum of the revenue reduction due to reduced taxes paid by nonresident employees and increased taxes paid to resident states due to lower credits. Table 1 also reports the net change as a percent of fiscal year 2008 total state taxes.<sup>1</sup>

Twenty-five states have either an income tax revenue gain or no loss under the legislation; another 22 states have revenue reductions less than 0.02% (two-hundreds of a percent or two-tenths of a mill) of state tax collections. As the table illustrates, the bill redistributes income taxes between resident and nonresident states with only a very slight reduction in total income taxes collected by the states. For all states combined, the net change in total taxes is only a reduction of -.01% or \$42 million, which accrues as a reduction in overall personal income taxes.

<sup>1</sup> The estimates were prepared by Ernst & Young LLP based on survey data provided by seventeen states through the Federation of Tax Administrators, as well as state tax collection data for other states from the U.S. Census *Governmental Finances* and state tax collection reports and journey-to-work data from the U.S. Census. More detailed estimates, as well as a description of the estimating methodology, are available upon request. The legislation will not affect local personal income taxes.

**Table 1: Estimates of Impact of H.R. 1129 / S. 1645, FY 2008**

<b>State</b>	<b>Net Change as a Percent of Total State Taxes</b>	<b>Net Change in Millions of Dollars</b>
Alabama	0.01%	\$0.5
Alaska	0.00	0.0
Arizona	0.01	1.3
Arkansas	0.00	-0.3
California	-0.01	-6.2
Colorado	-0.02	-1.5
Connecticut	0.02	3.1
Delaware	0.08	2.4
District of Columbia	0.00	0.2
Florida	0.00	0.0
Georgia	-0.01	-1.8
Hawaii	0.00	0.2
Idaho	0.00	0.1
Illinois	-0.02	-7.4
Indiana	0.03	3.8
Iowa	0.01	0.9
Kansas	0.00	0.3
Kentucky	-0.01	-1.3
Louisiana	-0.02	-1.7
Maine	0.00	0.1
Maryland	-0.01	-1.0
Massachusetts	-0.03	-6.9
Michigan	-0.01	-1.8
Minnesota	-0.01	-2.2
Mississippi	0.01	0.6
Missouri	0.01	1.6
Montana	0.00	-0.1
Nebraska	0.00	-0.1
Nevada	0.00	0.0
New Hampshire	0.00	-0.1
New Jersey	0.09	26.2
New Mexico	0.00	0.0
New York	-0.07	-45.2
North Carolina	-0.01	-1.6
North Dakota	0.00	-0.1
Ohio	-0.01	-1.7
Oklahoma	-0.01	-0.5
Oregon	-0.04	-2.7
Pennsylvania	-0.01	-2.2
Rhode Island	0.12	3.3
South Carolina	0.03	2.3
South Dakota	0.00	0.0
Tennessee	0.00	-0.1
Texas	0.00	0.0
Utah	-0.01	-0.7
Vermont	0.01	0.3
Virginia	-0.01	-1.3
Washington	0.00	0.0
West Virginia	-0.01	-0.4
Wisconsin	0.00	-0.4
Wyoming	0.00	0.0
<b>Total for All States</b>	<b>-0.01%</b>	<b>-\$42.0</b>

# Exhibit C

## Mobile Workforce State Income Simplification Act

Provisions incorporated into current legislation (H.R. 1129 / S. 1645)  
to address concerns raised by New York & the Federation of Tax Administrators

Issue	Prior Legislation	Concern	Current Legislation (H.R. 1129 / S. 1645)
Non-resident day threshold	More than 60 days	Day threshold too high (FTA Position: Threshold should be more than 20 days or, alternatively, more than 30 days, unless the individual earned in excess of \$250,000 wages and related remuneration in the prior year, then more than 15 days)	More than 30 days
Definition of compensation	Wages “paid” to an employee	To avoid altering treatment of deferred compensation, should be wages “earned” by an employee	Wages “earned” by an employee
Definition of a nonresident work day	A work day is assigned to a nonresident state when more than 50 percent of that day’s employment duties are conducted in a nonresident state	If a nonresident is in New York for any part of a work day, then the work day should be assigned to New York	A work day is assigned to a nonresident state (e.g., New York) when any part of the work day is in that nonresident state (but a single day may be assigned only to one nonresident state)
Effective date	Effective upon date of enactment	Effective date should be delayed to provide ample time to develop	Beginning of the 2 <sup>nd</sup> calendar year following enactment (January 1,

		administrative guidance and to minimize fiscal impacts.	2013, which would thus have no fiscal impact until the final quarter of New York FY13-14).
Clarification of definition of Operating Rules (penalties)	n/a	Employers would not be liable to pay the tax if it was not withheld	If a tax was owed but not withheld, an employer that should have withheld could be subject to penalties for failure to withhold tax, under certain circumstances
Application of Operating Rules (review cycle)	n/a	No specific time required for an employee/employer to compare liabilities	Annual review
Use of a Time & Attendance System	Not specifically identified	If a system for time & attendance exists, an employer had an option to use or not use	If a system is designed to track employee time and attendance, it must be used