

108TH CONGRESS
2D SESSION

S. 2785

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

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 9, 2004

Mr. DODD (for himself and Mr. LIEBERMAN) introduced the following bill;
which was read twice and referred to the Committee on Finance

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 2004”.

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

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

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

3 “(a) PHYSICAL PRESENCE REQUIRED.—

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

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

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

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

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

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

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

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

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

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

16 “(2) the taxation of corporations, partnerships,
17 trusts, estates, limited liability companies, or other
18 entities, organizations, or persons other than non-
19 resident individuals in their capacities as employees
20 or independent contractors,

21 “(3) the taxation of individuals in their capac-
22 ities as shareholders, partners, trust and estate
23 beneficiaries, members or managers of limited liabil-
24 ity companies, or in any similar capacities, and

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