



Oral testimony of Lori Brown, CPP

Good afternoon. My name is Lori Brown, and I'm speaking today on behalf of the American Payroll Association in favor of HR 1129, the Mobile Workforce State Income Tax Simplification Act.

The APA is a nonprofit professional organization with more than 20,000 members. Most of our members are the payroll managers for their employers; and some of our members work for payroll service providers who in turn process the payrolls for another 1.5 million employers.

I have been a payroll professional for more than 20 years and worked for several multistate employers. Having worked in this environment, I have first-hand knowledge of the many challenges that employees and employers face in trying to manage their state and local income tax obligations.

Often when employees cross state borders for work, the administrative burdens on employers and employees increase exponentially. I would like to explain some of the difficulties involved, which should clarify why HR 1129 is so important to both business and workers.

You have my full written testimony, so I'd like to focus on a couple real-life examples.

One day, when I was with a former employer, one of our employees came into the payroll office.

He said, "Lori, why is my paycheck short?"

Understand that we had 4,000 employees, and I wasn't intimately aware of each employee's situation, so I spent some time looking into it. Eventually I was able to tell him, "John, you were working in New York last pay period, and we withheld state taxes."

He looked puzzled and said, “I live in Virginia. Did you also withhold Virginia taxes?”

“Yes,” I said, “that’s what we have to do.”

So now, not only was he puzzled, he was upset. John’s job required that he travel quite a bit for us to different states, and we withheld nonresident taxes for each of his trips. None of his previous employers had ever done that.

The following January, when we distributed the Forms W-2 – those are the employees’ wage and tax statements – John’s was six pages long. It is unusual for any worker’s W-2 to be more than a single page. John’s was six. He wasn’t happy about that either.

Like a lot of people, John was used to preparing his own tax returns. I told him, “John, you might want to hire a tax professional.”

“Lori, will the company pay for that?” That made me a little uncomfortable. The company did actually reimburse tax preparation services for our executives, but not for employees at John’s level. For good or bad, I hear that’s somewhat commonplace among employers.

So we had an employee who had an interesting job and who was good at it. When he came to work for us, he thought he understood what he was getting into. The tax situation was a rude surprise. In the end, he was frustrated, and there was tension in the payroll office.

I have a friend in the APA, Margaret, who I told about John’s situation. Margaret said, “Lori, not only would my company have paid for John’s tax service, we would have covered any extra taxes he had to pay to other states, just to keep him happy.”

Not every company is so generous, and some – especially smaller employers – don’t feel they can afford that benefit.

There are plenty of other costs that the employer bears that employees like John don’t realize.

Through the years, my employers have had to hire legal and tax counsel to guide us through some incredibly complicated issues.

While I was with one company, we were sending consultants to meet with clients in Colorado. We didn't have any offices there, but the state rules required that we register as an employer. Because we didn't have a physical presence there, we had to hire a registered agent to act on our behalf. That was an unexpected expense for us.

While we had Arizona residents on assignment in California, we also had to dedicate personnel to track the time that was worked and the wages that were earned there. We needed that data to determine whether we needed to pay employment taxes weekly, quarterly, or annually in California as well as how much to withhold for each state. When the work was over, we had to be sure to close the accounts, turn off the withholding for California, and track each employee's next work assignment.

HR 1129 would have eliminated a lot of trouble for the companies I worked for and for the employees that I paid. The 30-day safe harbor provided in the bill would have eased John's tax issues considerably, since we wouldn't have had to withhold taxes for every one of his business trips, and he wouldn't have had to file tax returns for every state he visited. He would still have had a complex return, because he was in a few states longer than 30 days, but he would have been spared the extra work of filing a few tax returns just to get all of his money back.

All too often, obeying the current laws creates an administrative burden on employers, employees, and states for no good reason. Often these employees do not incur actual tax debts during their short stays.

The safe harbor will also provide a framework within which more employers will be able to comply. The law will provide clarity through a uniform rule that will eliminate much of the confusion created by the current patchwork of laws.

Thank you for the time you have allowed me to speak to you. Along with my colleagues in the American Payroll Association and my fellow panelists, I look forward to watching this important legislation pass.