

WRITTEN TESTIMONY OF
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Before the
**House Judiciary Subcommittee on Regulatory Reform, Constitutional &
Antitrust Law**
For the hearing on

H.R. 2315
“The Mobile Workforce State Income Tax Simplification Act of 2015”

June 2, 2015

Mr. Chairman, Ranking Member Johnson, Congressman Bishop and members of the Subcommittee, thank you for the opportunity to testify today in support of H.R. 2315, *the Mobile Workforce State Income Tax Simplification Act of 2015*. My name is Lawrence Leaman, and I am Vice President of Taxes for Masco Corporation (Masco). I am pleased to testify today on behalf of Masco and as a member of the Mobile Workforce Coalition, in support of this important, common sense, solution-oriented legislation. We support the uniform state tax withholding requirements established by H.R. 2315 and encourage you to report the bill favorably out of the Subcommittee.

Masco, headquartered in Taylor, Michigan, is one of the world's largest manufacturers of brand-name products for the home improvement and new home construction markets – well-known brands such as Delta Faucets, Behr Paint, KraftMaid and Merillat Cabinets, Milgard Windows, and Caldera and Hot Spring Spas. Masco is also a leading provider of a variety of installed products and services, including insulation for homebuilders. We are one of the largest suppliers to retailers such as Home Depot and Lowe's. Our workforce includes employees that must travel across state lines as part of their job responsibilities such as salesforces, cabinet installers, insulation installers, and dedicated retail support for Home Depot and Lowe's.

Masco has nearly 23,000 employees in the United States, including approximately 1000 in Michigan. We have facilities in several states including the districts of several Subcommittee members. In Chairman Marino's district in Sayre, Pennsylvania, Masco Cabinetry employs approximately 700 individuals. The State of

California is home to approximately 3000 employees with 560 of those individuals employed by Watkins Manufacturing, the manufacturer of Caldera and Hot Spring Spas, which is located in Congressman Issa's district in Vista. In addition to Masco's corporate headquarters, the State of Michigan has branches of Behr Paint, Masco Contractor Services, and Delta as well as the headquarters of Masco Cabinetry and Brasscraft Manufacturing. BrassCraft, located in Novi, Michigan and part of Congressman Trott's district, employs approximately 200 individuals. Approximately 500 employees who are employed by Behr Paint, Hansgrohe USA, and our Home Depot Support Services are in the home state of Congressman Collins and Ranking Member Johnson. Approximately 1000 employees, primarily employed by Milgard Windows, work in Congresswoman's DelBene's home state of Washington.

The Problem

Masco places a high priority on our company and our employees being in full compliance with all state tax requirements. Company oversight and compliance with tax laws are a large part of my job. A side note; Masco has been an active participant in the IRS' Compliance Assurance Program (CAP) since 2006 and the State of Michigan's MCAP pilot program patterned after the IRS CAP initiative since 2011. Both programs are predicated on highly compliant and cooperative taxpayers working closely with the respective government taxing authorities to assure timely and accurate tax reporting. Accordingly, we spend significant resources to comply with both federal and state tax laws and regulations which include requirements for withholding and reporting on employees who travel to nonresident states. Although management of employee payroll, travel, marketing and sales do not fall under my department or supervisory responsibilities, I am frequently consulted by the aforementioned disciplines as to the potential tax ramifications pertaining to business employment matters.

As a practical matter, it is impossible to assure 100% compliance with states' rules for withholding, reporting, and individual return filing given that there are hundreds of thousands of permutations of origin and destination states, or length of nonresident stay and business purpose for our employees who travel on business. The current patchwork of state nonresident withholding rules coupled with our decentralized

structure and the cross-department functionality at Masco makes administering payroll near to impossible, and the exposure and legal risks are getting higher each year.

Several of Masco's business units require that our employees travel frequently across state lines to serve our customers. Whether it is the installer of insulation assisting a sister branch located in a bordering state or a cabinet installer traveling to any number of states in a given year predicated on peak demands and workforce availability, the employee could be called to cross state lines on very short notice and without any consideration of the potential tax reporting consequences. The primary objective of the business unit and employee is to respond to a customer's needs. Rarely are we talking about a business trip that is more than a few days, and in almost all cases it is less than 30-60 days per year. Current law imposes complex personal nonresident return filing obligations on traveling employees even when only a few days of travel are involved. However, most employees are not aware of these tax obligations outside of their state of residence until their employer tells them of their reporting/withholding requirements. When a traveling employee does file in a nonresident state, they likely incur additional third party tax preparation costs, because we cannot offer tax advice to them. If that employee lives in one of the states with no personal income tax such as Florida, New Hampshire, Tennessee, Texas or Washington where we have significant employee presence (over 2,000 employees from our service group alone), then they cannot file for a refund or credit for taxes paid in another state.

Since most of these nonresident filings involve minimal taxes, the states' administrative costs to process nonresident returns are disproportionate to the taxes involved. Without uniform withholding rules for all states, tracking and maintaining accurate records is burdensome, particularly for employees who might make less than \$50,000 per year.

Masco Examples:

Masco Contractor Services, which principally installs insulation in residential and commercial properties, has a workforce approximating 7,000 employees. However, in any given tax year, the business unit can expect to file over 10,500 W-2's on behalf of

their employee workforce. An astounding 50% incremental administrative effort caused by an employee crossing a state border consumes significant, non-value added time and effort on behalf of the payroll department not to mention the annoyances incurred by the employee. Most of this problem could be eliminated with enactment of H.R. 2315.

As you might imagine, the burden for the employee can be quite onerous and at times absurd. For example, an installer working in the Midwest region with their resident state being Ohio in one particular year crossed numerous state and municipal borders resulting in 50 W-2's being issued to the employee for the given tax year. Yes, 50 W-2's for one employee in one year. Enactment of H.R. 2315 would go a long way in mitigating such ridiculous results.

While the corporation maintains resources necessary to address this administrative burden, the employee is not as fortunate. As previously mentioned, many of our affected employees make less than \$50,000 per year and have limited resources to seek professional advice. But due to the complexity of the individual's multiple state tax filings, the employee is required to seek expensive tax advice in order to comply with a myriad of complex state tax laws and regulations. To underscore the complexity of the tax compliance, it is not uncommon for Masco's payroll department to receive phone calls from the employee's professional tax advisor inquiring as to how the multiple state W-2's should be reported and what tax laws or regulations could we cite to reduce the employee's tax liability. Since neither I nor the Company's payroll department is in a position to assist with such tax advice, one can only wonder the accuracy of the employees' tax filings. Consequently, the employee is often assessed tax liabilities including interest and penalties they can ill afford. Enactment of H.R. 2315 would significantly reduce the complexity of our employees' individual tax return compliance and corresponding tax preparation financial burden.

H.R. 2315 is the Solution

The Mobile Workforce State Income Tax Simplification Act provides for a uniform, fair and easily administered law that helps to ensure that the correct amount of tax is withheld and paid to the states without the undue burden that the current system

places on employees and employers. Consistent with current law, the legislation provides that an employee's earnings are subject to full tax in his/her state of residence. In addition, under the legislation, an employee's earnings would be subject to tax in the state(s) within which the employee is present and performing employment duties for more than 30 days during the calendar year – a timeframe that is long enough to be meaningful and reasonable as well as uniformly applied. With a uniform nonresident withholding threshold for all states, we will be able to better track our employees and ensure that our employees and our withholding are in full compliance.

Conclusion

As you know, during the 112th Congress, this bipartisan legislation (previously H.R. 1864) was passed by voice vote by both the House Judiciary Committee and the full House of Representatives, signaling strong bipartisan support for this interstate tax policy. Masco respectfully requests that H.R. 2315 be favorably reported out of the Subcommittee for swift full Committee and Floor action.

I am happy to answer any questions and thank you for the opportunity to be here today.