



Kansas law gives nonresident employers and employees tax-related relief in connection with disaster services

On April 1, 2015, Kansas Governor Sam Brownback approved the Kansas Disaster Utilities Response Act ([L. 2015, S109](#)) that, effective April 9, 2015, exempts out-of-state businesses and their nonresident employees from certain tax and regulatory requirements if they are providing services temporarily within the state in connection with a declared state disaster or emergency.

Kansas joins a number of states, such as Arkansas (see *EY Payroll NewsFlash*, Vol. 16, 096, 4-9-2015), that in recent years have provided tax relief for temporary nonresident employment connected with disaster and disaster-recovery efforts.

Scope of tax relief available

Qualified out-of-state businesses are exempt from:

- state and local business licensing or registration requirements
- state and local taxes or fees, including without limitation:
 - (1) unemployment insurance contributions
 - (2) state and local occupational licensing fees
 - (3) state income taxes (including employer withholding requirements)
 - (4) state and local sales and use taxes or ad valorem taxes on equipment used or consumed during any disaster response period
 - (5) licensing and regulatory requirements of the state corporation commission or the secretary of state

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Kansas otherwise requires income tax withholding on all nonresident wages

Employers should be aware that in the normal course of business, Kansas requires income tax withholding on wages connected with all services provided within the state by nonresident employees unless a state or federal exception applies (e.g., certain transportation employees). (*Kansas Withholding Tax Booklet, Form KW-100, rev. 2015*).

As we previously reported, (*EY Payroll NewsFlash*, Vol. 16, 094, 3-10-2015), after failing to pass in 2014, Senator John Thune (R-South Dakota) has reintroduced, along with 7 cosponsors, [S. 386, Mobile Workforce State Income Tax Simplification Act of 2015](#), to ease the nonresident income tax burden on businesses and taxpayers by exempting employment of 30 or fewer days in a state from nonresident income tax.

Qualified out-of-state employees are exempt from:

- Filing or paying Kansas income taxes
- Income tax withholding on their wages
- Any other state or local tax or fee including related state or local employer withholding and remittance obligations, but not including transaction taxes or fees as described in §1(c)

Services and period covered by the relief

The exemption applies to disaster-related or emergency-related work which includes preparation for a disaster and repairing, renovating, installing, building, and rendering services or other business activities that relate to critical infrastructure that has been damaged, impaired, or destroyed by a declared state disaster or emergency.

The relief is available only for the disaster response period that begins ten days before the first day of the earlier of the Governor's declaration, the President's declaration of a federal major disaster or emergency, or declaration by the chair of the board of county commissioners of any county or by the mayor or other principal executive officer of a city. The period ends the later of sixty calendar days after the declared state disaster or emergency or the date authorized by the governor.

Who is covered?

The legislation extends to businesses and employees as follows:

▶ **Out-of-state businesses.** A qualified out-of-state business is an entity whose services are requested by a state-registered business or a state or local government entity for purposes of performing disaster or emergency work in the state, and that prior to any declared state disaster or emergency and work related thereto:

- Has no presence, registrations or tax filings in the state
- Conducts no business in the state except for disaster or emergency-related work during a disaster response period

An out-of-state business includes a business entity that is affiliated with a registered business in the state solely through common ownership.

▶ **Out-of-state employees.** A qualified out-of-state employee is an individual who does not work in the state except for providing disaster-related or emergency-related work during a disaster response period.

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Notice requirement

Any out-of-state businesses that enter the state shall, *upon request*, provide to the department of revenue a written statement that the business is in the state for purposes of responding to a declared state disaster or emergency. The statement shall include for the out-of-state business:

- Name
- State of domicile
- Principal business address
- Federal tax identification number
- Date of entry into the state
- Contact information

A registered business shall, upon request, provide the department of revenue the above information for any out-of-state affiliate that enters the state.

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