

EMPLOYER EXPERIENCES

The Council On State Taxation (COST) and the American Payroll Association (APA) asked their members to provide insight into the effect that existing disparate state laws regarding taxation of nonresidents has on them. The following stories were provided to COST and the APA.

High Administrative Burden. "In order to become compliant for each state it would require an employer to add up to two or three dedicated employees to do this tracking manually. This could add a cost of approximately \$150,000 each year to the payroll department budget. The Mobile Workforce State Income Tax Simplification Act would provide consistency for reporting and withholding in states. It would minimize the number of employees that we would have to track and it also would reduce the number of manual transactions that the payroll department would have to make to the employee record."

Tax Calculation Costs Exceed Tax Liabilities. "A national standard is the only solution. We employ roughly 600 employees in 46 states. We have several customer service centers throughout the United States that most of our employees work out of and we have some resident technicians who live in remote locations that work out of their homes. We have about 12 employees total that travel out of their state on an occasional basis to work a job. I spend roughly three hours every other week hand figuring out-of-state/city taxes on some employees as our payroll system isn't designed to tax two different states or taxing authorities on the same paycheck. Some of these employees may only pay in \$30 to \$100 a year into a different taxing authority and they hate having to file tax returns at year end for just that little amount in a different state/city. In general, it's just a pain in the neck. I'm guessing there is no getting around this without some kind of national standard."

Encourages Low Compliance. "Resources currently devoted to compliance would be better spent elsewhere. We have about 200 stores with about 6000 active employees with a 40%+ turnover ratio throughout various states. We have locations in more than 30 states. We have a traveling team that travels state-to-state to prepare for stores opening, which means that technically they should be taxed in each state they work in. We attempt to comply with the various states' laws, but it is nearly impossible. We sometimes have to issue W-2c as we may have taxed the employee incorrectly. A national standard would allow my team to spend their time in other areas that may be overlooked now."

Predatory Auditing Practices. "Employees are harassed with frivolous tax assessments. A State audited my employer and analyzed the W-2 of every employee. For every employee that had some withholding in the State (over 1,000), the State assessed tax as if the employees were in the State every day. This shifted the burden of proof to my employer and required my employer to explain, for each employee, why our withholding for the State was correctly less than 100%. Reasons for less than 100% withholding for the State include: employee moves into or out of the State mid-year; employee had a long-term temporary assignment in another state or country; employee completed paperwork to allocate wages as prescribed by the State; supplemental tax rate change occurred mid-year in the State. Auditors used the highest rate for entire year instead of the rate in effect at the time of payment; or imputed income added at the end of the year related to personal use of company provided vehicles and/or inclusion of income for group term life insurance in excess of annual limitations are not subject to withholding in the State. Nevertheless, the State threatened and carried through on its assessment of penalties claiming that my employer "should have known" that some of its employees (less than 1%) traveled for more than a few weeks into the State because my employer reimbursed their expenses for trips into the State. In reality, expense reporting systems are not linked to payroll systems and the fact that travel expenses are reimbursed does not automatically mean that the payroll department is aware of travel to the State."

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Current System Difficult to Understand. "Full compliance is impossible. I have no idea what the cost of full compliance is because we can't fully comply with current laws. The vast majority of our employees who travel are exempt, so they don't complete timesheets. Consequently, we have no way of knowing how many hours they worked in which state and when those hours were worked. We can, however, keep track of employees who spend at least a couple of months in one state because those employees require the exclusive use of one of the offices in our branches. This kind of arrangement, though, is extremely unusual. In the past six years, we have had only one employee who worked in another branch for more than a couple of months. We have 250 exempt employees and 270 non-exempt employees. We have offices in four states."

Extremely High Administrative Costs Prohibit Full Compliance. "My employer operates in 50 states, internationally and in over 200 local jurisdictions. Each state, country and locality has in which it operates has different withholding thresholds and rules. My company has over 100,000 employees. The administrative burden of tracking and complying with every jurisdiction is already cost prohibitive and it would cost at least \$5 million in additional internal and external costs to devise and implement a system that could adhere to each and every rule. Additionally, the net result of all of this effort is often as little as \$1,000 being remitted to a nonresident jurisdiction. My employer does remit withholding on all resident employees in every jurisdiction. The additional burden stems from the multitude and variety of rules at the state level especially in states with thresholds as low as 14 days."

No System Exists to Track Current Patchwork of Laws. "Current law confuses employees and their employers. My employer has devoted 1200 hours and \$115,000 managing withholding for nonresidents on just a quarterly basis. We have many disgusted employees as well. Here are the issues for my employer: payroll systems do not have the capability to effectively manage multiple work locations; accurate and systemic recording of travel to nonresident states does not exist (the employer can't tell from travel logs what time of day employees leave to or from a nonresident state to determine if that is a day worked); employees are very confused regarding their responsibilities to nonresident states; and employees' accountants have been confused on how to complete nonresident forms and how to take credit on their resident state returns."

Compliance Must Be Done Manually. "Many payroll systems are incapable of tracking employees working in more than one state. My employer has 250 employees in 3 states. Even though we are a small employer there are difficulties with the various state rules. Not all payroll systems are capable of tracking employees working in more than one state. Ours would have to have an upgrade that allows "at will" change of state. At this time we would have to set up an additional pay code for each state and manually enter the time. I am a one person full charge payroll office and am responsible for non payroll duties as well. I have no idea what the cost ramifications would be of full compliance with current law. I do know that there would be extensive time involved if this had to be done manually and would possibly require additional personnel. I'm assuming that the offices would actually be able to get the information back to the payroll department in a timely manor, which is a big assumption."

Employees Must Keep Complex Travel Logs. "Different tax laws impose enormous administrative burden on employees and employers. Compliance with state regulations regarding employees who travel and work in multiple states an enormous amount of administrative paperwork. My company employs 2000 people in 6 different states. A small percentage of those employees are required to travel to and from these facilities and most often for a few days at a time. They must maintain travel logs and report the information to payroll so the applicable state laws can be manually applied."