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Top stories

Indiana law gives nonresident income tax and withholding relief for short-term business travelers and their employers

On May 4, 2023, Indiana Governor Eric Holcomb approved [SB 419](#), which, effective January 1, 2024, exempts from Indiana adjusted gross income compensation received by nonresident employees (other than professional athletes and public figures) for services they provide within Indiana for 30 days or less during the calendar year.

—[Read more about this development in EY Tax Alert 2023-0871](#)

Montana law gives nonresident income tax and withholding relief for short-term business travelers and their employers

On May 18, 2023, Montana Governor Greg Gianforte approved [H.B.447](#), which, effective January 1, 2024, exempts from Montana source income compensation received by nonresident employees (with the exceptions noted in our alert) for services they provide within Montana for 30 days or less during the calendar year.

—[Read more about this development in EY Tax Alert 2023-0919](#)

EY special report provides insights into employer compliance with federal and state Form W-4 rules for 2023

Now that most employees have filed their 2022 personal income tax returns, employers can expect an increase in withholding tax questions and a rise in adjustments to federal and state withholding allowance certificates (e.g., federal Form W-4).

Our special report explains the employer obligations for processing federal Form W-4 changes and provides a handy reference chart of the state rules that apply in 2023.

See also [This Month's Insights](#) for additional considerations when employees want to claim total exemption from state income tax withholding.

—[Download the 2023 report](#)

US employment tax rates and limits

Our 2023 edition of US employment tax rates and limits includes, as of April 26, 2023, the following:

- Social Security wage base for 2023
- Qualified pension plan limits for 2022 and 2023
- Health Savings Account limits for 2022 and 2023
- Fringe-benefit inflation adjustments and Form W-2 penalties for 2023
- Federal mileage rates and luxury vehicle limits for 2023
- Per diem rates under high-low substantiation method for 2023
- 2021 and 2022 FUTA credit reduction
- State unemployment insurance wage bases and tax rates for 2023
- Disability and paid family leave insurance wage base and rates for 2023
- Federal income tax withholding for 2023
- State income tax withholding tables, supplemental withholding and the highest withholding tax rates for 2023

—[Download the latest report](#)

Federal developments

Employers may be subject to government refund suits for employee retention credits even after the normal three-year statute of limitations expires

While the general three-year statute of limitations on assessment will expire on April 15, 2024, for 2020 employee retention credit claims (and April 15, 2025, for 2021 claims), the IRS has an additional two years from issuance of any refund to seek its repayment in court, even if the general three-year statute of limitations has expired.

—[Read more about this development in EY Tax Alert 2023-0887](#)

Tax Court holds that deadline for electronic filing is according to time zone where the Tax Court is located

In *Nutt v. Commissioner* (160 T.C. No. 10), the Tax Court held that a petition electronically filed five minutes after the deadline in the time zone where the court was located was late, even though it was timely filed in the time zone where the petitioners were located. As a result, the court dismissed the case for lack of jurisdiction.

—[Read more about this development in EY Tax Alert 2023-0829](#)

State income tax withholding

Arkansas law lowers top marginal personal income tax rate retroactive to January 1, 2023

On April 10, 2023, Arkansas Governor Sarah Huckabee Sanders signed into law [SB 549](#), which, retroactive to January 1, 2023, lowers the top marginal personal income tax rate from 4.9% to 4.7%. The supplemental rate of withholding is also reduced from 4.9% to 4.7%.

—[Read more about this development in EY Tax Alert 2023-0779](#)

Idaho releases revised 2023 income tax withholding tables reflecting new flat income tax

The Idaho State Tax Commission has published revised 2023 tables for the [percentage method](#) and [wage bracket method](#) used for wages paid on or after May 15, 2023.

—[Read more about this development in EY Tax Alert 2023-0907](#)

Michigan Department of Treasury will allow employers to withhold at new reduced tax rate for 2023

The Michigan Department of Treasury (Department) confirmed in [frequently asked questions](#) that revised withholding tables will not be published to reflect the 2023 reduction in the personal income tax rate from 4.25% to 4.05% that was announced earlier this year. As to whether employers can withhold at the lower rate of 4.05% in the absence of updated 2023 withholding tables, the Department stated that employers have the option of continuing to withhold at 4.25% or refigure withholding calculations using the reduced rate of 4.05%.

—[Read more about this development in EY Tax Alert 2023-0807](#)

North Dakota law lowers personal income tax rates retroactive to January 1, 2023

On April 27, 2023, North Dakota Governor Doug Burgum signed into law [H.B. 1158](#), which, retroactive to January 1, 2023, lowers the state's personal income tax rates by collapsing the tax brackets from five to three with tax rates of 0%, 1.95% and 2.5%. Under prior law, the highest tax rate was 2.9%.

—[Read more about this development in EY Tax Alert 2023-0849](#)

Utah lowers personal income tax rate retroactive to January 1, 2023; revised withholding tables released

On March 22, 2023, Utah Governor Spencer J Cox signed into law [H.B. 54](#), which, retroactive to January 1, 2023, lowers the state's personal income tax rate from 4.85% to 4.65%. The Utah State Tax Commission updated [Publication 14, Withholding Tax Guide](#) to reflect the reduction in the income tax withholding rate to 4.65%, effective for wages paid on and after June 1, 2023.

—[Read more about this development in EY Tax Alert 2023-0861](#)

State unemployment insurance

Arkansas law lowers unemployment insurance rate for new employers and makes other changes affecting employer SUI costs

On March 6, 2023, Arkansas Governor Sarah Huckabee Sanders approved [House Bill 1430](#), which makes numerous changes to the state's unemployment insurance (SUI) law.

—[Read more about this development in EY Tax Alert 2023-0916](#)

Local payroll tax

New York law increases the Metropolitan Commuter Transportation Mobility Tax for certain New York counties effective July 1, 2023

On May 3, 2023, New York Governor Kathy Hochul approved [Senate Bill 4008](#) which, effective July 1, 2023, increases the top rate for the Metropolitan Commuter Transportation Mobility Tax (MCTMT) from 0.34% to 0.60% for employers and individuals in certain New York counties and clarifies the application of the tax for limited partners.

—[Read more about this development in EY Tax Alert 2023-0840](#)

Other payroll developments

California law changes civil rights pay data reporting requirements; pay data reports now due second Wednesday of May

On September 27, 2022, California Governor Gavin Newsom signed into law [Senate Bill 1162](#), which requires, as of January 1, 2023, pay data reporting for the calendar year by the second Wednesday of May 2023 (May 10, 2023) and each second Wednesday of May thereafter by private employers with 100 or more employees. Under prior law, the report was due by March 31 of each year and was submitted only if the employer was required to file an annual Employer Information Report (EEO-1). The law also makes other changes to the pay data reporting requirements.

—[Read more about this development in EY Tax Alert 2023-0853](#)

Bill watch

Alabama

SB 65	Status: Read second time in House of Origin, 3-21-2023 (legislature adjourns June 14, 2023)	Topic: Local tax rate control, make clear local tax applies only for work carried on within the locality (convenience of the employer rule)
<p>Would do the following: reduce any municipal occupational license tax greater than 1% based on an annual reduction in the tax until the tax would be 1%; provide that any occupational license tax levied by any municipality does not apply to any person performing an occupation in the police jurisdiction of the municipality or on any property annexed into the municipality after January 1, 2023; provide for a referendum under certain conditions in certain counties in which two or more municipalities levied an occupational tax greater than 1% on January 1, 2023; prohibit a municipality from levying a new occupational license tax or increasing the rate of any existing municipal occupational license tax; provide for certain exceptions from any occupational taxes for certain temporary workers and for severance pay; specify the power of a municipality pursuant to Section 11-51-90 of the Code of Alabama 1975, to license an exhibition, trade, business, vocation, occupation or profession only within the corporate limits and jurisdiction of the municipality, provide for refunds and collections of the license fees and taxes, and provide that these provisions are retroactive and declaratory of existing law.</p>		

Georgia

SB 160	Status: Approved by Governor, May 1, 2023	Topic: Unemployment insurance tax rates
<p>Changes the unemployment tax rate for new employers to 2.64% through 2026, increasing to 2.7% after 2026. Institutes a 0.06% administrative assessment tax from 2024 through 2026 that applies to new employers and employers with an experience rating; however, reimbursing employers and those employers paying the minimum or maximum unemployment tax rate are not subject to the assessment. The administrative assessment is not reported as a contribution on the Form 940 and is repealed entirely effective January 1, 2027.</p>		

Indiana

SB 419	Status: Approved by Governor, May 4, 2023 (See <i>EY Tax Alert 2023-0871</i>)	Topic: Nonresident income tax, de minimis exemption
Simplifies individual income tax filings and reduces employers' withholding and reporting burdens related to employees working less than 30 days in Indiana.		

Kansas

H.B. 2420	Status: Referred to House Committee on Taxation, 2-15-2023 (legislature adjourned) Bill did not pass before session adjournment and will have to be reintroduced in 2024	Topic: Nonresident income tax, de minimis exemption
Would establish a 30-day safe harbor before nonresident employees traveling into the state for work duties are subject to income tax in Kansas and their employers to corresponding withholding obligations. This safe harbor would be available only if the nonresident's work state offers a substantially similar 30-day threshold and related provisions.		

Maine

LD 1638	Status: Sent to the House Committee on Taxation, 4-12-2023 (legislature adjourns June 21, 2023)	Topic: State personal income tax rate decrease
Would reduce the state's individual income tax rates for tax years 2023 and 2024 from 5.8%, 6.75% and 7.15% to 5.2%, 6.3% and 7.05%, respectively. Starting with the 2025 tax year, the rates would be reduced to 5%, 6% and 7%, respectively.		

Maine

LD 1946	Status: Referred to Committee on Taxation, 5-16-2023 (legislature adjourns June 21, 2023)	Topic: Expand the state personal middle income tax bracket
Would, effective January 1, 2023, increase the taxable income subject to the 6.75% and 7.15% tax rates.		

Maryland

S.B. 828	Status: Approved by Governor, 5-3-2023	Topic: State paid family and medical leave insurance
Delays the start date for employer/employee contributions to the state paid family and medical leave insurance plan from October 1, 2023, to October 1, 2024; prohibits a total contribution rate of more than 1.2% to be paid 50% by employers and employees; changes the definition of taxable wages.		

Minnesota

SF 2346	Status: Referred to Taxes, introduction and first reading, 3-1-2023 (legislature adjourned May 22, 2023)	Topic: Nonresident income tax, de minimis exemption
Would establish a 30-day safe harbor before nonresident employees traveling into the state for work duties are subject to income tax in Minnesota and their employers to corresponding withholding obligations. This safe harbor would be available only if the nonresident's work state offers a substantially similar 30-day threshold and related provisions.		

Minnesota

H.F. 442	Status: Referred to Taxes, introduction and first reading, 1-17-2023 (legislature adjourned May 22, 2023)	Topic: State personal income tax rate increase
Effective retroactive to January 1, 2023, would establish a new tax rate of 10.85% on incomes over \$600,000 for single filers; over \$800,000 for heads of household; and over \$1 million for joint filers. The bill would also raise the income thresholds for the existing income tax brackets for all filers.		

Minnesota

HF 2	Status: Presented to Governor, 5-23-23 (legislature adjourned May 22, 2023)	Topic: State paid family and medical leave insurance
Would establish a state paid family and medical insurance program effective July 1, 2025, with a premium rate of 0.7% for both family and medical benefits, 0.57% for medical benefits only and 0.13% for only the family benefit program (lower rates would apply to small businesses with fewer than 30 employees).		

Minnesota

SF 3035	Status: Presented to Governor, 5-23-23 (legislature adjourned May 22, 2023)	Topic: Earned sick and safe leave (ESSL)
Would, effective January 1, 2024, provide covered employees up to 48 hours of earned ESSL for a variety of purposes. The state earned sick and safe leave law would not preempt local ESSL laws.		

Montana

H.B. 447	Status: Approved by Governor, 5-18-2023 (See <i>EY Tax Alert</i> 2023-0919)	Topic: Nonresident income tax, de minimis exemption
Establishes a 30-day safe harbor before nonresident employees traveling to the state for work are subject to income tax in Montana and their employers to corresponding withholding obligations. The provision includes a "key employee" exception for employees who earn over \$500,000 in compensation in the prior year.		

Nebraska

LB 416	Status: Notice of hearing 2-15-2023 (legislature adjourns June 9, 2023)	Topic: Nonresident income tax, convenience of the employer rule
Would not impose the convenience of the employer rule unless the employee is present in Nebraska for more than 30 days in the tax year.		

Nebraska

L.B. 173	Status: Notice of hearing 2-23-2023 (legislature adjourns June 9, 2023)	Topic: Nonresident income tax, de minimis exemption
Would establish a 30-day safe harbor before nonresident employees traveling into the state for work duties are subject to income tax in Nebraska and their employers to corresponding withholding obligations.		

New Jersey

AB 4694/ SB 3128	Status: Reported out of Assembly Committee, 5-18-2023, Reported from Senate Committee with Amendments, 12-19-2022 (legislature adjourns 12-31-2023)	Topic: Convenience of the employer rule
Would provide that if another state in which an employee resides imposes tax on the income of an employee who works out-of-state for an in-state employer due to the convenience of the employee, that same rule will apply to a person who works for a New Jersey employer but who resides and works outside of New Jersey at the employee's convenience. This means that if an employee's state of residence determines the source of income of nonresidents by a "convenience of the employer test," and the employee works for a New Jersey employer from a location in the employee's state of residence for the employee's own convenience, then the New Jersey employer would be required to include those days as days worked in New Jersey and withhold income tax accordingly. See more details here .		

Pennsylvania (Philadelphia)

S.B. 671	Status: Referred to House finance, 5-5-2023 (legislature adjourns December 31, 2023)	Topic: Convenience of the employer rule
Would prohibit imposing the Philadelphia wage tax on nonresidents working for employers within the city if the employee performs all duties or services outside of the city and makes clear that the tax can only be imposed for services physically provided by nonresidents within the city.		

Vermont

H. 217	Status: Passed by House and Senate, 5-12-2023, Governor intends to veto (legislature adjourned May 12, 2023)	Topic: Payroll tax to fund child care
Would require that, effective July 1, 2024, employers pay a Child Care Contribution of 0.44% of covered wages (0.11% of self-employed income). Would allow employers to withhold a maximum of 25% of the contribution from employees' wages.		

This month's insights

Watch out for exceptions that may apply when employees want to claim total exemption from state income tax withholding*

For federal income tax withholding purposes, only one form is used, Form W-4, even if employees are claiming total exemption from withholding. This is not necessarily the case when it comes to state income tax withholding. Except for military spouses claiming exemption from state income withholding under the Military Spouses Residency Relief Act and nonresidents claiming exemption under a state income tax reciprocal agreement, which usually requires completing separate forms, some states do not allow employees

to claim 100% exemption from withholding, others require use of a separate form, and a few states have other unique limitations.

Particularly since the Tax Cuts and Jobs Act of 2017 eliminated federal personal exemptions through December 31, 2025, many states have now decoupled from the federal Form W-4, using instead their own specific state form(s). This movement away from use of the federal Form W-4 has increased the number of states that have a unique approach to claiming total exemption from state income tax withholding.

Below is a summary of the state exceptions to note (for employees other than those claiming exemption under the Military Spouses Relief Act and nonresidents covered by a state income tax reciprocal agreement).

States that do not allow 100% exemption from withholding

- **Alabama** ([Act 2015-504](#) repealed the provision allowing a taxpayer, other than a military spouse, to claim a total exemption from state income tax withholding)
- **Hawaii** (see [Form HW-4](#), *Employee's Withholding Allowance and Status Certificate*)

States that require a separate exemption certificate

- **Arkansas** ([Form AR4ECSP](#))
- **Connecticut** (for nonresidents, [Form CT-W4NA](#))
- **Louisiana** ([Form L-4E](#))
- **New York** ([Form IT-2104-E](#))
- **North Carolina** ([Form NC-4EZ](#))
- **Pennsylvania** ([Form REV-419](#))

No option to claim 100% exemption on regular withholding certificate and there is no separate exemption certificate

- **Delaware** (see [Form DE W-4](#))
- **Indiana** (see [Form WH-4](#))
- **Massachusetts** (only available to full-time students engaged in seasonal, part-time or temporary employment whose estimated income does not exceed \$8,000, see [Form M-4](#))
- **Mississippi** (available only to military spouses under the Military Spouses Residency Relief Act, see [Form 89-350](#))
- **West Virginia** (see [Form WV-IT-104](#))

Other limitations

- **Illinois** (federal Form W-4 must claim 100% exemption to claim 100% exemption from Illinois income tax withholding, see [Form IL-W-4](#))
- **Iowa** (nonresidents cannot claim 100% exemption from Iowa income tax withholding, see [Form IA W-4](#))

Key takeaway



Even if you are using a third-party system for collecting and storing state withholding allowance certificates, it is important to be familiar with the specific state (and local) requirements that apply to your workforce. Whatever system is used, in-house or third-party, confirm that protocols are in place to reject forms that are not compliant (e.g., Iowa nonresidents claiming 100% exemption from Iowa withholding).

Find more information about state Form W-4 requirements in our 2023 [special report](#).

***Source:** *EY US Payroll Tax Factfinder*. For information on how to purchase [contact us](#).

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