


 [View our services](#)

 [Email us](#)

 [Join us on LinkedIn](#)

## [Don't miss this month's insights](#)

### Top stories

#### **IRS announces moratorium on processing new claims for employee retention credit**

The IRS announced ([IR-2023-169](#)) in a news release that it was immediately pausing processing of new claims for the employee retention credit (ERC) through at least the end of the year due to continuing concerns about improper claims.

—[Read more about this development in EY Tax Alert 2023-1561](#)

#### **Illinois law requires that large employers provide transit benefits to their employees starting in 2024**

Illinois law creates the [Transportation Benefits Program Act](#) (HB 2068), which, effective January 1, 2024, requires that Illinois employers with 50 or employees in designated transit zones provide transit benefits to their covered employees.

—[Read more about this development in EY Tax Alert 2023-1558](#)

#### **US employment tax rates and limits**

Our 2023 edition of US employment tax rates and limits includes, as of August 25, 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

### **USCIS issues policy guidance to clarify eligibility for Extraordinary Ability and Outstanding Professor/Researcher immigrant visa classifications**

The U.S. Citizenship and Immigration Services (USCIS) updated its Policy Manual to clarify how its officers ought to evaluate evidence to determine eligibility for Extraordinary Ability and Outstanding Professor or Researcher first preference, employment-based immigrant visa classification (EB-1). The guidance instructs reviewing USCIS officers on how to assess eligibility based on comparable evidence provided by petitioners. It also provides more structure in adjudication by outlining a step-by-step analysis framework for reviewing officers with an emphasis on how the evidence ought to be evaluated during each step. The revised policy guidance contains helpful examples of positive evidence that may satisfy the relevant evidentiary criteria or qualifying comparable evidence to satisfy the above noted evidentiary requirements.

—[Read more about this development in EY Tax Alert 2023-1542](#)

## State income tax withholding

### **Arkansas lowers personal income and corporate tax rates starting in 2024**

On September 15, 2023, Governor Sarah Huckabee Sanders signed into law [SB 8](#), which, effective January 1, 2024, lowers the top personal tax rate from 4.7% to 4.4% and reduces the top corporate tax rate from 5.1% to 4.8% for domestic and foreign corporations.

—[Read more about this development in EY Tax Alert 2023-1569](#)

### **Indiana Form WH-4 is now updated to reflect eligibility for one-time dependent child tax exemption**

The Indiana Department of Revenue [announced](#) on August 30, 2023, that that an updated [Form WH-4, Employee's Withholding Exemption and County Status Certificate](#), is now available for immediate use.

—[Read more about this development in EY Tax Alert 2023-1480](#)

### **Missouri rescinds income tax withholding rule for temporary work locations during the COVID-19 emergency**

The Missouri Department of Revenue (DOR) has [rescinded](#) the rule ([12 CSR 10-2.019](#)) governing income tax withholding on wages earned at temporary work locations from March 13, 2020 through November 1, 2020 (the COVID-19 relief period) because the rule is no longer applicable.

—[Read more about this development in EY Tax Alert 2023-1602](#)

## State unemployment insurance

### Montana law lowers the maximum number of weeks that claimants can receive unemployment insurance benefits

Montana Governor Greg Gianforte signed into law [H.B. 652](#), which lowers the maximum number of unemployment insurance (UI) benefit weeks from 28 to 24. The law is effective for UI benefit claims filed on or after July 1, 2023.

This legislation has the indirect effect of lowering employers' state unemployment insurance (SUI) costs while also reducing cash outflows from the state's UI trust fund.

—[Read more about this development in EY Tax Alert 2023-1621](#)

## Other payroll developments

### Illinois law requires pay transparency in job postings

Illinois Governor J.B. Pritzker signed into law HB 3129, which, effective January 1, 2025, expands the Illinois Equal Pay Act (IEPA) to require that employers with 15 or more employees provide pay transparency in job postings.

—[Read more about this development in EY Tax Alert 2023-1608](#)

### Tennessee remote worker triggers state business tax liabilities

The Tennessee Department of Revenue's Hearing Office [upheld](#) a franchise and excise tax assessment against an out-of-state manufacturer because an engineer was providing services from his Tennessee home office.

—[Read more about this development in EY Tax Alert 2023-1551](#)

### Texas trial court holds law preempting local employment practice ordinances is unconstitutional; law remains in effect during litigation

On August 30, 2023, the Texas District Court for Travis County (court) ruled in favor of Houston in a [lawsuit](#) against Texas asserting that parts of [H.B. 2127](#) are unconstitutional, overly vague and unenforceable (*City of Houston v. Texas, DC TX, Dkt. No. D-1-GN-23-003474, Aug. 30, 2023*). The court held that absent a severability clause, the state is enjoined from enforcing the legislation in its entirety. Dozens of local officials signed onto an [amicus brief](#) in support of the lawsuit.

The Texas Attorney General (TAG) issued a [press release](#) on September 1, 2023, confirming that, despite the ruling of the court, H.B. 2127 went into effect on September 1, 2023. The TAG explained that the court's decision "does not enjoin enforcement of the law by Texans who were not parties to Houston's suit and who were harmed by local ordinances, which H.B. 2127 preempts."

—[Read more about this development in EY Tax Alert 2023-1501](#)

## Bill watch (tracking the status of legislation proposed in 2023)

### Alabama

<a href="#">HB 217</a>	<b>Status:</b> Passed House and Senate, 6-6-2023. <b>Became law 6-6-2023</b> (See <i>Tax Alert</i> <a href="#">2023-1282</a> )	<b>Topic:</b> Wages subject to state income tax
Exempts overtime pay for hours worked over 40 hours per week from state income tax.		

### Alabama

<a href="#">SB 65</a>	<b>Status:</b> Read second time in House of Origin, 3-21-2023; indefinitely postponed, 5-31-2023 (legislature adjourned 6-14-2023) <b>Bill did not pass before session adjournment</b>	<b>Topic:</b> Local tax rate control, make clear local tax applies only for work carried on within the locality (convenience of the employer rule)
Would have done 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.		

### Georgia

<a href="#">SB 160</a>	<b>Status:</b> <b>Approved by Governor, May 1, 2023</b> (See <i>Tax Alert</i> <a href="#">2023-1258</a> )	<b>Topic:</b> Unemployment insurance tax rates
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 in effect 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 subject to the assessment. The administrative assessment is not reported as contributions on the Form 940 and is repealed entirely effective January 1, 2027.		

### Illinois

<a href="#">HB 3129</a>	<b>Status:</b> <b>Approved by Governor, August 11, 2023</b>	<b>Topic:</b> Equal Pay Act wage transparency
Expands the state's current Equal Pay Registration Certificate process by requiring that Illinois employers with more than 15 employees include pay scale and benefits information in all open job postings.		

## Indiana

<a href="#">SB 419</a>	<b>Status:</b> <b>Approved by Governor, May 4, 2023</b> (See <i>Tax Alert</i> <a href="#">2023-0871</a> )	<b>Topic:</b> 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

<a href="#">H.B. 2420</a>	<b>Status:</b> Referred to House Committee on Taxation, 2-15-2023 (legislature adjourned) <b>Bill did not pass before session adjournment</b>	<b>Topic:</b> Nonresident income tax, de minimis exemption
Would have established 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 have been available only if the nonresident's work state offered a substantially similar 30-day threshold and related provisions.		

## Maine

<a href="#">LD 1638</a>	<b>Status:</b> (legislature adjourned June 21, 2023) <b>Bill did not pass before session adjournment</b>	<b>Topic:</b> State personal income tax rate decrease
Would have reduced 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 have been reduced to 5%, 6% and 7%, respectively.		

## Maine

<a href="#">LD 1946</a>	<b>Status:</b> Referred to Committee on Taxation <b>Voted Ought Not to Pass</b> , 5-31-2023 (legislature adjourned June 21, 2023)	<b>Topic:</b> Expand the state personal middle income tax bracket
Would have, effective January 1, 2023, increased the taxable income subject to the 6.75% and 7.15% tax rates.		

## Maryland

<a href="#">S.B. 828</a>	<b>Status:</b> <b>Approved by Governor, 5-3-2023</b> (See <i>EY Tax Alert</i> <a href="#">2023-1029</a> )	<b>Topic:</b> 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

<a href="#">SF 2346</a>	<b>Status:</b> Referred to Taxes, introduction and first reading, 3-1-2023 (legislature adjourned May 22, 2023) <b>Bill did not pass before session adjournment</b>	<b>Topic:</b> Nonresident income tax, de minimis exemption
Would have established 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 have been available only if the nonresident's work state offered a substantially similar 30-day threshold and related provisions.		

## Minnesota

<a href="#">H.F. 442</a>	<b>Status:</b> Introduction and first reading, referred to Taxes, 1-17-2023 (legislature adjourned May 22, 2023) <b>Bill did not pass before session adjournment</b>	<b>Topic:</b> State personal income tax rate increase
Effective retroactive to January 1, 2023, would have established 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 have raised the income thresholds for the existing income tax brackets for all filers.		

## Minnesota

<a href="#">HF 2</a>	<b>Status:</b> <b>Approved by Governor 5-25-2023</b> (See <i>Tax Alert</i> <a href="#">2023-1111</a> )	<b>Topic:</b> State paid family and medical leave insurance
Establishes a state paid family and medical insurance program with contributions and benefits beginning January 1, 2026, with employer quarterly wage detail reports starting July 1, 2025. The premium rate is 0.7% for an employer participating in both family and medical benefit programs; 0.4% for an employer participating in only the medical benefit program with an approved private plan for the family benefit program; and 0.3% for an employer participating in only the family benefit program with an approved private plan for the medical benefit program. Contributions are paid up to the Social Security wage limit; however, small employers pay at a lower wage limit based on number of employees. Employers may deduct up to 50% of the contributions from employees' wages.		

## Minnesota

<a href="#">SF 3035</a>	<b>Status:</b> <b>Approved by Governor 5-24-2023</b> (See <i>Tax Alert</i> <a href="#">2023-1088</a> )	<b>Topic:</b> Earned sick and safe leave (ESSL)
Effective January 1, 2024, provides covered employees up to 48 hours of earned ESSL for a variety of purposes. The state ESSL law does not preempt local ESSL laws.		

## Montana

<a href="#">H.B. 447</a>	<b>Status:</b> <b>Approved by Governor, 5-18-2023</b> (See <i>Tax Alert</i> <a href="#">2023-0919</a> )	<b>Topic:</b> 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

<a href="#">LB 416</a>	<b>Status:</b> Notice of hearing 2-15-2023 (legislature is adjourned) <b>Bill did not pass before session adjournment</b>	<b>Topic:</b> Nonresident income tax, convenience of the employer rule
Would only have imposed the convenience of the employer rule if the employee were present in Nebraska for more than 30 days in the tax year.		

## Nebraska

<a href="#">L.B. 173</a>	<b>Status:</b> Notice of hearing 2-23-2023 (legislature is adjourned) <b>Bill did not pass before session adjournment</b>	<b>Topic:</b> Nonresident income tax, de minimis exemption
Would have established a 30-day safe harbor before nonresident employees traveling into the state for work duties were subject to income tax in Nebraska and their employers to corresponding withholding obligations.		

### Nebraska

<a href="#">L.B 754</a>	<b>Status:</b> <b>Approved by Governor, 5-31-2023</b> (See Tax Alert <a href="#">2023-1362</a> )	<b>Topic:</b> Personal income tax decrease
Collapses the current personal income tax brackets to three and lowers the rates in stages over four years starting in 2024.		

### New Jersey

<a href="#">AB 4694/ SB 3128</a>	<b>Status:</b> <b>Approved by Governor, 7-21-2023</b> (See Tax Alert <a href="#">2023-1291</a> )	<b>Topic:</b> Convenience of the employer rule
Provides that, retroactive to January 1, 2023, 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 is required to include those days as days worked in New Jersey and withhold income tax accordingly.		

### New York

<a href="#">SB 5572/AB 6796</a>	<b>Status:</b> <b>Approved by Governor, 9-15-2023</b>	<b>Topic:</b> Salary threshold for exempt employees
Effective March 13, 2024 (180 days from September 15, 2023), raises New York State's salary threshold for salaried-exempt employees from \$900 per week to \$1,300 per week, indexed each year for inflation.		

### North Carolina

<a href="#">HB 490</a>	<b>Status:</b> Referred to Committee on Finance, 3-28-2023 (legislature adjourns 10-13-2023)	<b>Topic:</b> Wages subject to state income tax
Would exempt certain bonuses and overtime pay for hours worked over 40 hours per week from state income tax.		

### Pennsylvania (currently impacts Philadelphia)

<a href="#">S.B. 671</a>	<b>Status:</b> Referred to House finance, 5-5-2023 (legislature adjourns December 31, 2023)	<b>Topic:</b> 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.		

### South Carolina

<a href="#">HB 3450</a>	<b>Status:</b> Referred to Committee on House Ways and Means, 1-10-2023 (legislature adjourned 5-11-2023) <b>Bill did not pass before session adjournment</b>	<b>Topic:</b> Wages subject to state income tax
Would have exempted certain bonuses and overtime pay for hours worked over 40 hours per week from state income tax.		

## Vermont

<a href="#">H. 217</a>	<b>Status:</b> Passed by House and Senate, 5/12/2023, <b>House and Senate overrode the Governor's veto, 6-20-2023</b> (See <a href="#">Tax Alert 2023-1338</a> )	<b>Topic:</b> Payroll tax to fund childcare
Requires that, effective July 1, 2024, employers pay a Child Care Contribution of 0.44% of covered wages (0.11% of self-employed income). Allows employers to withhold a maximum of 25% of the contribution from employees' wages.		

## Wisconsin

<a href="#">AB 386</a>	<b>Status:</b> Passed by House and received by the Senate, 9-13-2023; passed Senate Joint Committee on Finance 9-26-2023	<b>Topic:</b> Personal income tax cut, retirement income exclusion
Would slash the state's third income tax bracket from 5.3 to 4.4% and remove taxes on up to \$100,000 in retirement income from, for example, 401(k) and pension accounts that people age 67 or older receive. That amount would be up to \$150,000 for married couples who are both at least 67. The bill faces a likely veto with insufficient votes in the Assembly to override it.		

## This month's insights

### Kentucky local tax compliance can be challenging if you operate throughout the state

Kentucky joins 15 other states that impose one or more local taxes; however, Kentucky has more local taxing jurisdictions than most states, with over 100 localities that impose an Occupational License Tax (OLT), which is based on taxable wages. The sheer number of Kentucky localities alone can be daunting, but there are other factors as well that make Kentucky local tax compliance challenging.

#### *Tax law uniformity*

Taxable wages for OLT purposes differ from taxable wages for Kentucky state income tax withholding purposes. Specifically, employee contributions to deferred compensation, profit sharing and retirement plans and employee pretax deductions under IRC Sections 125 and 132 are exempt from wages subject to Kentucky state income tax withholding but are included in wages subject to the Kentucky local OLT.<sup>1</sup>

Although the definition of taxable wages for OLT purposes is uniformly defined under Kentucky state law, local ordinances may vary in other areas such as which apportionment methods apply and when employees are exempt from the withholding tax.

For instance, Elizabethtown imposes the OLT on wages paid to residents and nonresidents for services performed within Elizabethtown; however, Lexington exempts from OLT those wages paid to employees who provide services entirely outside of Lexington but who work within Lexington performing services that are incidental to their services outside of Lexington such as reporting, receiving instructions, etc., if their time in Lexington is two or less hours per week or one week or less per year. ([Lexington Ordinance 14.4, Section 2.2](#))

Some jurisdictions include other taxes in their OLT ordinances. For example, [Louisville's](#) OLT ordinance includes transit and school board taxes.



## *Identifying the local taxes that apply to an employee*

Kentucky does not provide a statewide geo-coding website that employers can use to enter the resident/work address of an employee to identify the local taxes that apply. Other states with a large number of local taxing districts make this service available, for example, [Ohio](#) and [Pennsylvania](#).

### **Centralized administration**

Kentucky local taxes are administered by each of the more than 100 local taxing authorities.

Some states, such as Indiana, Maryland and Ohio, administer their state's local taxes, thereby allowing employers to file returns and pay local taxes with one taxing authority. In other states, like Alabama and Pennsylvania, third-party tax administrators are used by many localities, reducing the number of entities to which taxes are paid and where returns are filed.

#### **Key takeaways**

To assist in correctly identifying the Kentucky local taxes that apply to each employee, employers should consider contracting with firms that offer geo-coding services.

Additionally, compliance with Kentucky local OLT taxes requires a careful review of each jurisdiction's ordinance, and this can be an overwhelming task considering there are more than 100 Kentucky localities that impose the tax. For this reason, employers should consider reaching out to their employment tax advisor to confirm that their payroll system tax configurations and procedures properly address Kentucky local OLT taxes.

---

<sup>1</sup> For Kentucky state income tax purposes, tax year 2023 taxable wages conform to the federal Internal Revenue Code in effect on December 31, 2022. ([KRS Section 141.010\(21\)](#)). Under the Kentucky Local Tax Enabling Act, taxable wages conform to the federal Internal Revenue Code in effect December 31, 2008, as amended, with the exception that employee contributions to deferred compensation, profit sharing and retirement plans and pretax contributions under IRC Sections 125 and 132 are subject to the OLT. ([Kentucky Local Tax Enabling Act, Section 67.750\(2\)](#).)

Some Kentucky locals have not updated their references to the federal Internal Revenue Code to comply with Kentucky state law. For instance, [Scott County](#) defines the Internal Revenue Code as "in effect on December 31, 2003, exclusive of any amendments made subsequent to that date."

**View prior editions of *Payroll Month in Review***

[Payroll Month in Review for March 2023](#)

[Payroll Month in Review for April 2023](#)

[Payroll Month in Review for May 2023](#)

[Payroll Month in Review for June 2023](#)

[Payroll Month in Review for July 2023](#)

[Payroll Month in Review for August 2023](#)

Contact Employment Tax Advisory Services for more information

**Kristie Lowery**

[kristie.lowery@ey.com](mailto:kristie.lowery@ey.com)

**Ken Hausser**

[kenneth.hausser@ey.com](mailto:kenneth.hausser@ey.com)

**Debera Salam**

[debera.salam@ey.com](mailto:debera.salam@ey.com)

The information contained herein is general in nature and is not intended, and should not be construed, as legal, accounting or tax advice or opinion provided by Ernst & Young LLP to the reader. The reader is also cautioned that this material may not be applicable to, or suitable for, the reader's specific circumstances or needs, and may require consideration of non-tax and other tax factors if any action is to be contemplated. The reader should contact his or her Ernst and Young LLP or other tax professional prior to taking any action based upon this information. Ernst & Young LLP assumes no obligation to inform the reader of any changes in tax laws or other factors that could affect the information contained herein. Copyright 2023. Ernst & Young LLP. All rights reserved. No part of this document may be reproduced, retransmitted, or otherwise redistributed in any form or by any means, electronic or mechanical, including by photocopying, facsimile transmission, recording, rekeying, or using any information storage and retrieval system, without written permission from Ernst & Young LLP.