



American Payroll Association

Government Relations • Washington, DC

September 19, 2016

Members

U.S. House of Representatives

Dear Members of the U.S. House of Representatives:

The American Payroll Association (APA) asks for your favorable vote on HR 2315, the Mobile Workforce State Income Tax Simplification Act.

APA is a nonprofit professional association with more than 20,000 members. Most of our members process the payroll for their employers, while some of our members work for payroll service providers who in turn process the payrolls of another 1.5 million employers, amounting to one-third of the entire private-sector workforce. Payroll professionals are the people responsible for the administrative task of properly withholding and remitting state and federal taxes. Simply put, no one is more familiar with the responsibility and difficulty relating to withholding nonresident state taxes from employees' pay.

In addition, APA itself is a small employer with 90 employees in 13 states. APA employees travel regularly throughout the country providing educational services to payroll professionals. Often when employees cross state borders for work, the administrative burdens on employers and employees increase exponentially.

HR 2315 is very important to both businesses and workers. This is an issue that cuts across all demographics, from large to small employers, public and private sector, union and nonunion, nonprofit and for-profit, and all others.

APA asks for your support of the Mobile Workforce State Income Tax Simplification Act for the following reasons:

- **Ending inconsistent taxation of individuals who reside in one state and work in others** – When an employee resides in one state and works at times during the year in other states, state and local tax withholding and reporting can be very complicated, especially when states vary on their withholding and reporting requirements. The employer must verify the employee's state of residence, check whether any of the states where the employee has worked have income tax withholding reciprocity agreements, analyze the tax laws of those states, likely withhold taxes in each state, and prepare Forms W-2 or other supplemental forms for each state. Narrowing the number of states that must be considered based on the 30-day threshold in HR 2315 would reduce the burden on employers and employees significantly.

- **Reducing the burdens on employers caused by temporary out-of-state work assignments** – Determining whether a nexus for state income tax purposes has been established is extremely confusing. Businesses may take a common-sense approach believing that they have nexus only in those states in which they have established a physical presence or regularly provide services. Contrary to common sense, a recent study conducted by Bloomberg BNA found that seven states consider a business to have established nexus when an individual enters the state to attend a one-day seminar. HR 2315 offers a common-sense approach while ensuring that state income taxes are paid when legitimately owed.
- **Treating employees during out-of-state work assignments fairly** – The individual taxpayer, or employee, who does not spend enough time in another jurisdiction to exceed the proposed uniform threshold would also benefit from the passage of HR 2315, in terms of expense, cash flow, and filing burden. Currently, if an employee performs temporary service in another state without a threshold, but with a higher tax rate than that of the state of residence, he or she suffers an irretrievable increase in tax expense. This is especially true if the employee's home state does not have an income tax. Even when states have a very similar tax structure, the employee can suffer a significant cash flow problem if the resident state does not allow a credit for the taxes paid to work states.
- **Promoting increased compliance through decreased burden** – Because of the extreme complexity of the varying state tax regulations, many companies find complying with the laws nearly impossible. A lack of adequate software systems, personnel, time, money, or other resources are some of the impediments that prevent compliance with the complex laws. Still other companies are simply ignorant of the current legal framework and would be shocked to discover their own lack of compliance. More employers will be able to comply with a law that is uniform across all states and localities and that is federally supported, versus the current patchwork of laws.

The provisions in HR 2315 were negotiated in good faith to recognize the financial impact on states while also providing the necessary relief for businesses and workers. As mentioned earlier, the Mobile Workforce Bill provides a 30-day safe harbor for employees and employers. When an employee travels into another state, he or she will not be subject to nonresident taxes for time periods of less than 30 days. The 30-day threshold is not continuous, so an employee might make a number of business trips to a state before tripping it. Once the threshold is tripped, the tax and withholding obligation reaches back to the first day worked in the state. There are also appropriate exemptions for professional athletes, entertainers, and others who enter states for a short period and earn significant income while there.

APA urges you to enact this legislation to reduce the burden and cost of administering multistate taxes on workers and businesses. HR 2315 ensures fair and consistent handling of multistate taxation across the nation for the benefit of all Americans.

Sincerely,



William Dunn, CPP
Director of Government Relations
American Payroll Association