

THOUGHT LEADERSHIP

LEGAL UPDATES

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Services

State & Local
Taxation (SaLT)
Tax

Professionals

SMITHA CHINTAMANENI
MILWAUKEE:
414.978.5504
SMITHA.CHINTAMANENI@
HUSCHBLACKWELL.COM

BILL SCHENKELBERG,
CPA
MILWAUKEE:
414.273.2100
BILL.SCHENKELBERG@
HUSCHBLACKWELL.COM

Alabama Enacts 30-Day Exemption to Imposition of Individual Income Tax

In the wake of the COVID-19 pandemic and increased remote work, multistate income tax and payroll tax withholding responsibilities have received heightened consideration nationwide. Employers keen on retaining and attracting talent are working to understand the requirements of having employees working from home, including understanding the responsibilities of having a mobile workforce working across state lines.

Employers are often surprised to learn that they have the responsibility to withhold payroll tax in a state where employees physically perform work, even if it is not the state of the employee's residence or where the employer has a physical location. Examples of when a payroll tax withholding may be triggered include corporate executives who travel to various business, customer, or vendor locations for meetings, management, or other business reasons and repair or service professionals working in multiple states.

Because most companies do not require their employees to track the hours or days they work by location and each state has unique compliance rules, there is a real risk of non-compliance by employers.

On a federal level, efforts to enact a national standard have been stymied in Congress, leaving any hope of consistency to be through individual state legislation. While this is obviously a slow process and prone to variances from state to state, there has been a trend in recent years of states expanding the income tax exemption threshold. (See Indiana L. 2023, SB419; West Virginia L. 2021, HB2026; Louisiana L. 2021, SB157; and Illinois L. 2019, SB1515.)

Alabama is the latest state to pass legislation (L.2025, HB379) providing for a nonresident income tax and corresponding payroll tax withholding exemption if an individual is compensated for employment duties performed for less than 30 days in a calendar year. This exemption does not apply to professional

athletes, entertainers, or public figures and requires that the individual work in more than one state during the year. Additionally, the exemption only applies if the state of the individual's residence provides a substantially similar exemption or does not impose an individual income tax.

The law becomes effective for tax years beginning on or after January 1, 2026.

What this means to you

Businesses employing nonresident individuals who work in Alabama may be able to eliminate their payroll tax withholding requirements for that state under this exemption. Potentially impacted businesses should analyze application of the law for their facts, determine what contemporaneous documentation will be required, and update payroll processing policies and systems. Consideration should also be given to the payroll tax withholding requirements of other states as part of a comprehensive review.

Contact us

Please reach out to Smitha Chintamaneni, Bill Schenkelberg, or a member of Husch Blackwell's State & Local Taxation (SaLT) team for assistance in evaluating and understanding your multistate payroll tax withholding responsibilities.