

## Year-End Payroll Considerations for Employees with Business Travel

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Speaker: Ronit Rizzo, BDO USA, LLP

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### Why is this important to me?



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### Why is this important to me?

Payroll involves lots of computations such as timekeeping, wage calculations for overtime, vacation time, and sick days as well as government reporting requirements. The job mainly involves calculating and applying various tax deductions to the amount of compensation due to each employee.

**Ensuring the accuracy of the payroll is the main duty of a payroll specialist.**



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## Short term business traveler (STBT)

Employees who travel away from their home location for business, for less than one year and who are not on a formal assignment or transfer



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## Traveling Away From Home

You are traveling away from home if:

- Your duties require you to be away from the general area of your tax home substantially longer than an ordinary day's work, and
- You need to sleep or rest to meet the demands of your work while away from home.



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## Tax Home

Generally, your tax home is your regular place of business or post of duty, regardless of where you maintain your family home. It includes the entire city or general area in which your business or work is located.

If you have more than one regular place of business, your tax home is your main place of business.



**Question:** Can you have more than one tax home at one time?

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## Determination of Tax Home

### Main Place of Business or Work

- The total time you ordinarily spend in each place.
- The level of your business activity in each place.
- Whether your income from each place is significant or insignificant.

NOTE: Your tax home may be different from your family home. If you do not live at your tax home, you cannot deduct the cost of traveling between your tax home and your family home. You also cannot deduct the cost of meals and lodging while at your tax home.

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## Example #1

Your family home is in Pittsburgh, where you work 12 weeks a year. The rest of the year you work for the same employer in Baltimore. In Baltimore, you eat in restaurants and sleep in a long-stay hotel. Your salary is the same whether you are in Pittsburgh or Baltimore.

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## Example #1



### Questions:

- Where is your tax home?
  - Could you receive a non-taxable per diem while in Baltimore?
  - Would your hotel and meals in Baltimore with receipts be considered taxable compensation?
  - Would reimbursement of your travel expenses be considered taxable or non-taxable?
- (Think about this one.)

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## Short Term Business Traveler (STBT)

If your assignment or job away from your main place of work is temporary, your tax home does not typically change. You are considered to be away from home for the whole period you are away from your main place of work.

Generally, a temporary assignment in a single location is one that is realistically expected to last (and does in fact last) for 1 year or less.

However, if your assignment or job is indefinite, the location of the assignment or job becomes your new tax home. An assignment or job in a single location is considered indefinite if it is realistically expected to last for more than 1 year, whether or not it actually lasts for more than 1 year.

Note: Time is not the only factor to be considered in tax home.

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## Example #2

Your family home and work location is in Pittsburgh. You have been sent to Baltimore for a six month project and will return to your primary work location in Pittsburgh at its completion. In Baltimore, you eat in restaurants and sleep in a long-stay hotel. Your salary is the same whether you are in Pittsburgh or Baltimore.

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## Example #2



### Questions:

- Where is your tax home?
- Could you receive a non-taxable per diem while in Baltimore?
- Would your hotel and meals in Baltimore with receipts be considered taxable compensation?
- Would reimbursement of your travel expenses be considered taxable or non-taxable?

(Think about this one.)

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## Open Discussion



For more information: Internal Revenue Service Publication 463

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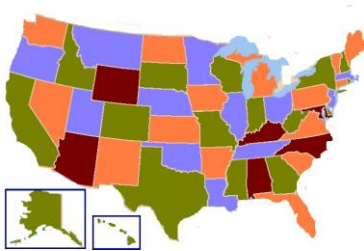
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## Multi-State Payroll Reporting



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## Multi-State Payroll Reporting

If your withholding obligations involve more than one state, the following are some general points to keep in mind:

- Some states have reciprocal agreements
- Employees must be subject to state income tax for withholding to apply (Typically resident or a non-resident that derives income from sources in the state)
  - De minimis services may be exempt - dependent upon state
- Some states have local taxes (employee and/or employer)
- State disability insurance will need to be considered (employee and/or employer)



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## Multi-State Payroll Reporting

Jurisdiction	Reciprocity	N
District of Columbia	The District has no official withholding tax reciprocal agreements with any other jurisdictions, including Virginia and the District, although informal reciprocity is practiced. Residents of the District of Columbia working in those states can voluntarily ask their employers to withhold their income taxes from their compensation. But they are also responsible for meeting their district tax obligations. Employees who maintain an office in the district and employ district residents must withhold district taxes from those residents. Employees in the district can also withhold taxes for states whose residents work in the District of Columbia.	
Georgia	The tax commissioner may enter into reciprocal withholding agreements with other states to ensure that employees residing or working in these states are not subject to double taxation on wages.	
North Carolina	The secretary of revenue can enter into agreements with other states having income tax withholding statutes to establish amounts to be withheld from wages earned in North Carolina by residents of such other states provided those states grant similar treatment to North Carolina residents.	
South Carolina	Income of South Carolina residents earned in other states and subject to withholding in those states is exempt from South Carolina withholding provided the employee usually withholds tax for such other state. In addition, with employees who are legal residents of South Carolina and who earn income both in and out of the state must withhold on all income not subject to withholding for another state.	
Virginia	The tax commissioner can enter into withholding agreements with other taxing jurisdictions to exempt nonresident employees from Virginia income tax if such other states grant similar exemptions to Virginia residents earning compensation in those jurisdictions. The tax commissioner releases Virginia employees from the withholding requirements for certain nonresident employees who reside in the District of Columbia, Kentucky, Maryland, Pennsylvania or West Virginia and who commute daily to work in Virginia and receive wages for services performed in Virginia for an employer within the geographical limits of Virginia. Such employees should indicate their exempt status on Form 10-4, Personal Exemption Worksheet. If an exempt employee moves to Virginia during the year or loses status as a commuter on a daily basis from any of the above jurisdictions to the state of employment in Virginia, the employee must notify the employer within 10 days after the change of status. The Virginia employer must withhold the full amount of Virginia income tax from the wages starting with the first wages paid to the employee after notification of the status change.	

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## Multi-State Payroll Reporting

<a href="#">District of Columbia</a>	<b>Withholding for Nonresidents</b> —There is no provision requiring District income tax to be withheld from the wages of nonresidents working in the District. The employer must ascertain the residency of the employee. Nonresidents should file Form D-40, Certificate of Nonresidence in the District of Columbia, with their employers. <b>Residents Working Outside the State</b> —District residents are not subject to District withholding if employed outside the jurisdiction. <b>Reciprocity</b> —The District of Columbia has informal reciprocity agreements with Virginia and Maryland. Residents of the District working in those states are not subject to District withholding unless they voluntarily request that District tax be withheld. <b>Severance Payments to Nonresidents (Services Performed In-State)</b> —Not taxable.
<a href="#">Georgia</a>	<b>Withholding for Nonresidents</b> —Nonresidents are subject to Georgia tax if they work in Georgia for more than 22 days in a calendar quarter, can attribute more than 5 percent of their wages to Georgia, or can attribute more than \$5,000 of their wages to Georgia. <b>Residents Working Outside the State</b> —Georgia residents working outside the state are exempt from Georgia income tax withholding if their compensation is subject to withholding in that state. <b>Reciprocity</b> —None. <b>Severance Payments to Nonresidents (Services Performed In-State)</b> —Not taxable.
<a href="#">Virginia</a>	<b>Withholding for Nonresidents</b> —all employers doing business within the Commonwealth must withhold Virginia tax from all wages paid to nonresidents for services performed within Virginia, except those covered by a reciprocal agreement. <b>Residents Working Outside the State</b> —Employees are not required to withhold Virginia tax from the wages of Virginia residents named outside the Commonwealth unless the other state or jurisdiction has no income tax or there is a reciprocal agreement between Virginia and another state. Employees subject to tax in another state will receive credits for those taxes against the amount owed to Virginia. Such employees should annually file Form 10-40, Employer's Withholding Income Tax Credit for Income Taxes Paid to Another State, which authorizes the employer to allow a portion of the credit and use period to reduce the Virginia income tax withholding from the employee's wages. <b>Reciprocity</b> —Reciprocal agreements exist between Virginia and the District of Columbia, Kentucky, Maryland, Pennsylvania, and West Virginia. Under the reciprocal agreements, Virginia employers are not required to withhold income tax from nonresident employees who reside in those jurisdictions and commute daily to work inside the state. Such exempt nonresident employees should indicate their status on Form 10-4, Personal Exemption Worksheet. A nonresident employee from a reciprocal state who either moves to Virginia or ceases to commute daily to the state should notify his or her employer within 10 days after the change of status. The Virginia employer must then commence withholding the full amount of state income tax. <b>Severance Payments to Nonresidents (Services Performed In-State)</b> —Taxable.

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## Multi-State Payroll Reporting

<a href="#">North Carolina</a>	<b>Withholding for Nonresidents</b> —Employees must withhold North Carolina income taxes from wages earned by nonresidents within the state. Any relief for nonresidents of double withholding must be granted by the employee's state of residence. Withholding at a rate of 4 percent is required on nonresident independent contractor payments of more than \$1,500 per year. <b>Residents Working Outside the State</b> —To prevent double withholding of wages earned by North Carolina residents working in another jurisdiction, North Carolina withholding is not required if the employer is required to withhold taxes from those wages for the other state or jurisdiction. <b>Reciprocity</b> —None. <b>Severance Payments to Nonresidents (Services Performed In-State)</b> —Taxable.
<a href="#">South Carolina</a>	<b>Withholding for Nonresidents</b> —Employers in South Carolina must withhold state income taxes from wages paid to nonresidents for services performed within South Carolina. Nonresidents are subject to withholding for the South Carolina portion of their income, and are required to file Nonresident Individual Income Tax Returns at the close of the year. Any employee contracting with any nonresident conducting temporary business in South Carolina must withhold tax at a rate of 5 percent from payments made if the contract exceeds \$10,000. <b>Residents Working Outside the State</b> —Residents working outside of South Carolina are subject to withholding for that income unless that income is also subject to withholding in the other state. <b>Reciprocity</b> —None. <b>Severance Payments to Nonresidents (Services Performed In-State)</b> —Taxable (Treated as wages).

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## Open Discussion



For more information: See the state taxing authority websites

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## International Assignments



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## Multi-Country Payroll Reporting

If your payroll reporting and tax withholding obligations involve more than one country, the following are some general points to keep in mind:

- What type of payroll will be processed - home, host, split, shadow
- What are the compensation reporting and tax withholding requirements in EACH country? Be mindful that taxability and/or non-taxability may not be the same by country.
- What is this employee offered in his assignment letter and how do we deliver and set-up those benefits/deductions?
- Where will cash be delivered for each compensation component.
- Are we compliant???

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## Multi-Country Payroll Reporting

What should payroll know for US inbound employees?

- Is the employee eligible to work in the US?
- The employee may require a shadow payroll even if they fully remain on the foreign entity payroll.
- Payroll needs to question US tax residency and days spent in the US.
- An income tax treaty position may apply.
- A social tax treaty position may apply.
- Ask questions!

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## Relocation Benefits

#1 Determine what type of move you are handling. Is this a "qualified move"?

- The move must be closely related in both time and place to the start of work at a new job location (work-related test).
- The distance between the employee's new principal place of work and old residence must be at least 50 miles greater than the distance between the old principal place of work and old residence, and the employee's commuting distance must have increased by at least 50 miles (distance test)
- In the 12-month period following the move, the employee must be a full-time employee for at least 39 weeks in that location or meet a qualified exception to the time limit (time test).

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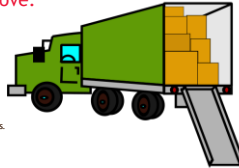


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## Taxability of Relocation Reimbursements/Benefits

Certain moving expenses, paid or reimbursed by the employer, are not taxable under the definition of U.S. wage income. To qualify as "non-taxable," the expenses generally must be accountable, substantiated and reasonable for the circumstances of the move.



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## Taxability of Relocation Reimbursements/Benefits

Expenses that can qualify as non-taxable include:

The transportation of household goods and personal effects (including in-transit storage and insurance expenses) from the old residence to the new residence. The costs of moving automobiles and pets are included in this category.

Travel expenses for the employee and household members from the old residence to the new residence (in-transit). These expenses usually include lodging, but not meals, during the trip. It is not necessary that all members of the household travel together at the same time.

**NOTE:** Other expenses, such as house-hunting expenses, temporary living, car rental, reimbursement for the loss on home sale, tax gross-ups, etc., are taxable benefits, as are unsubstantiated cash payments/allowances.

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## Open Discussion



For more information: Internal Revenue Service Publication 521

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## Assignment Allowance Payroll Entries

Why are we recording the imputed benefits?

- Proper payroll reporting
- Timely reporting

Recommendations:

- Know how the benefits are being paid (payroll, accounts payable, third party vendor, expense reimbursement, company AMEX, etc.)
- Set-up data sharing from the start
- Set-up pay codes for the benefit components
- Pay benefits through a separate pay run for the US tax gross up calculation

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## Tax Gross Ups

Grossing up is the action of calculating and offsetting the tax burden associated with reimbursed expenses that are deemed taxable by the IRS.

Taxes are paid on behalf of the employee in order to deliver a specific amount of compensation or a taxable benefit net of taxes.



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## US Tax Gross Up Calculation

Compensation		
Housing Allowance	3,000.00	
US Tax Gross Up	1,850.44	
Total Compensation		4,850.44
Tax Withholding		
Federal Tax	(1,212.61)	
Social Security Tax	(300.73)	
Medicare Tax	(70.33)	
Ohio Tax	(169.77)	
Local Tax	(72.76)	
School District Tax	(24.25)	
Total Tax Withholding		(1,850.44)
US Net Cash Disbursement		3,000.00

Gross Up Formula:  $\text{Benefits} / (1 - \text{tax rates}) - \text{Benefits} = \text{Tax Gross Up}$   
 Calculation:  $\$3,000 / (1 - 0.25 - 0.0145 - 0.062 - 0.035 - 0.015 - 0.005) - 3,000 = \$1,850.44$

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## US Tax Gross Up Calculation

Goods and Service Differential (COLA, LAFHA)	1,200.00	
Housing	1,000.00	
Automobile	400.00	
Dependent Education	600.00	
US Tax Gross Up	421.96	
US Taxable	3,621.96	
<b>US After Tax Deductions</b>		
Imputed Benefits	(2,000.00)	
<b>US Taxes</b>		
Federal Tax	-	
Social Security Tax	(214.56)	
Medicare	(52.52)	
Colorado (State)	(144.88)	
Greenwood	-	(421.96)
US Net Cash Disbursement	1,200.00	

Gross Up Formula:  $\text{Benefits}/(1-\text{tax rates})-\text{Benefits} = \text{Tax Gross Up}$

Calculation:  $\$3,200/(1-0.0145-0.062-0.04)-3,200 = \$421.96$

\*Some payroll systems have automatic gross up functions

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## Possible Interest and Penalties

- Failure to Make Deposit of Taxes - IRC §6656 (Up to 15% of amounts unpaid)
- Failure to Collect and Remit Taxes - IRC §6672 (Up to a 100% penalty of the amount not collected)
- Failure to Furnish Correct Payee Statement - IRC §6722 (Greater of \$100 per statement or 5-10% of the amount required to be reported)
- Negligence or Fraud - IRC §6662 and §6663
- Criminal Penalties - IRC §7207

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## General Tips for Year-End Payroll Reporting

- Question the completeness and accuracy of compensation reporting
- Ask questions and document responses
- Understand company thresholds for de minimis reporting
- Ensure that taxable benefits are captured and tax gross ups are included (if necessary)
- Make your partners aware of upcoming company expenses (tax gross up cost)
- Be familiar with your payroll processing dates and off cycle options
- Communicate with the employees



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## Final Discussion



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## Thank you for your time!

Ronli Rizzo is a Managing Director in the BDO Charlotte expatriate tax and payroll practice. Ronli specializes in the taxation and payroll reporting of U.S. nationals working abroad and foreign nationals working in the U.S. Ronli's experience includes payroll consulting, U.S. individual income tax, and general expatriate assignment consulting. Ronli is also experienced in the transfer and set-up of newly acquired expatriate programs.

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