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Labor & Employment Compliance Bulletin

Employee Withholding Can Be A Minefield For The Unprepared

As multi-state employers are well aware, the vast majority of states have personal income tax and require withholding state taxes from employee wages as part of their payroll/tax responsibilities (in addition, there are numerous localities that require local withholding as well). Employers should be aware of specific requirements and terminology relating to state withholding.

There are several factors to consider when making withholding decisions in relation to employees. If an employer and its employees all operate and live within a single state (which is an extreme rarity among employers of any size) the employer can withhold for that state and all matters are easily put to rest. When an employer operates in multiple states or has employees that reside in other states or work in multiple states, the process can become confusing as multiple factors touching state and local withholding may come into play. States periodically change processes as well, and include new requirements employers need to be aware of—for instance, Pennsylvania added a residency certificate a few years ago as part of PA Act 32 which requires a time-consuming manual process of looking up and adding school district tax codes, and North Carolina revamped their entire withholding process at the start of 2014, requiring entirely new forms for every employee.

Employers will want to be aware of those states that have reciprocal agreements in effect with their own. If an employee performs services in a state other than their own state of residence, this should be investigated. States with reciprocity allow the employer to withhold only for the employee state of residence, rather than where work is performed. This can greatly simplify things for both employee and employer—the employee will file just one state tax return and the employer will only withhold for a single state. This can be especially helpful if an employee works in an area where several states share borders and the employee performs services in each.

The determination of nexus often causes employers headaches in the withholding equation. Nexus generally means that an employer has a business association in a particular state that would make the withholding laws of that state applicable. This is easy to determine if the employer has a brick and mortar location, but other operations can trip the nexus wire, especially in age of internet commerce. At times, it is possible for a single sale or service call to establish nexus, depending on the state. Nexus rules can be complicated and should be investigated thoroughly to ensure compliance.

Withholding can be a confusing and time consuming business, given the myriad state and local laws and regulations in effect, in addition to federal laws. Many states have sought to enforce tax laws as a way to recoup state revenue shortcomings, and employers need to ensure that they have the expertise and processes in place to comply.

Bottom Line

Employers should continuously monitor the compliance landscape to keep abreast of changes in withholding requirements that might affect them. Equifax Workforce Solutions can help simplify compliance with the various state and local withholding requirements through an easily-managed platform that helps ensure compliance with new regulatory guidelines. To learn more about how Equifax Workforce Solutions can help you stay abreast of all state and federal withholding requirements, please send an email to pete.krieshok@equifax.com, with the subject line of "Labor & Employment Compliance Bulletin."