BUDGET & TAXES

Adopting a new income tax liability threshold

By Sam Cardwell
Contributor

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Introduction

As a result of the COVID-19 lockdowns, remote work has surged.

According to the United States Census Bureau, the number and percent of home-based workers more than tripled between 2019 and 2021, from 5.7% (roughly 9 million workers) to 17.9% (about 28 million workers).

Consequently, this trend towards remote work needs the proper policy actions by policymakers to allow these employees to both thrive in their positions and incentivize them to work in the state.

As remote-based companies grow, they need to have the assurance that the states their employees reside in are well suited for their sector of work. There is a great administrative advantage for employers to have the option to choose from job candidates all around the country without experiencing hesitations around state's tax policies. One of the areas of policy involved is an income tax obligation or withholding threshold.

This is the limit that employees must exceed in a state before they are either liable to pay the state income tax, or employers are required to withhold income taxes on the employees' behalf. There is a great administrative advantage for employers to have the option to choose from employees all around the country.

KEY INFORMATION COLUMN

As it stands in Idaho, a nonresident employee must make $1,000 while in Idaho, to have their employer withhold their income tax for the state.

Around the country, states have been looking at ways to increase this threshold to make their state attractive for remote and nonresident employees to work out of. Idaho should follow suit.

As it stands in Idaho, a nonresident employee must make $1,000 while in Idaho, to have their employer withhold their income tax for the state. While this policy is mainly associated with remote workers, it also affects those who engage in frequent business travel, and those who desire to work in a hybrid model in a different state.

As Charlie Kearns from the National Conference of Legislators explains:[1]

> *"Several states adopt bright-line withholding thresholds, although they vary by state. While the states' nonresident withholding thresholds predominantly apply to ordinary business travel, the thresholds also impact taxation of a remote worker's wages when an employer permits employees to work from anywhere, such as during an out-of-state vacation or at a relative's home for a short, temporary period (for example, two weeks)"*

Manish Bhatt, Senior Policy Analyst at Tax Foundation, notes[2]:

> *"By now, we are accustomed to the increased mobility of the workforce. Unfortunately, many state tax codes have not caught up. In fact, some states impose tax withholding and filing obligations on nonresident workers that spend as little as one day in the state. Further, surprisingly few states have reciprocity agreements which help protect residents from double taxation for time spent elsewhere. Raising the thresholds for tax withholding and filing and considering reciprocity agreements between states are commonsense reform options."*

One of the biggest hurdles in this transition towards remote-based working has been the economic policies surrounding income tax at the state level. An example of this is the Convenience of Employer Policy.

This rule essentially states that any income an employee earns for a company will be taxed in the employer state, regardless of their residency status. This means that an out-of-state employee will have to pay their income tax twice, once in their employer's state, and again in the state they reside.

[1] "State and Local Tax Considerations of Remote Work Arrangements," National Conference of State Legislatures, available at www.ncsl.org/fiscal/state-and-local-tax-considerations-of-remote-work-arrangements
[2] Manish Bhatt, Senior Policy Analyst, Tax Foundation, available at https://www.linkedin.com/feed/update/urn:li:activity:7141168233729900544/

KEY INFORMATION COLUMN

Idaho, California, South Carolina, Oklahoma, Minnesota and Wisconsin use a minimum wage threshold to have income taxes withheld.

This is put into effect in Arkansas, Connecticut, Delaware, Massachusetts, and Nebraska. On the flip side, states like Pennsylvania and New Jersey have implanted a reciprocal agreement on nonresident income tax. This clarifies that a resident of one state working in the other will only owe taxes to their resident state under certain conditions. In both circumstances, the state's decisions on these policies have proven to be consequential.

As the National Taxpayers Union Foundation explains:[3]

> *"Tax policies play a major factor in residency decisions, and remote work will likely accelerate tax migration. States can either resist the trend and bleed taxpayers or embrace it and work to become competitive."*

Withholding Threshold Trends Around the Country

State policies on this issue are usually categorized by multiple factors. They usually either adopt a rule relating to a maximum wage made in the state, or a specific day limit of working in a particular state. These benchmarks are given for either income tax liability in the state, or for income tax withholding by an employer. There are multiple examples of states that use a wage threshold.

Idaho falls into this category with a $1,000 minimum to have income taxes withheld. California, South Carolina, Oklahoma, Minnesota, and Wisconsin also use this strategy. Georgia includes multiple factors while determining the threshold.

According to their rule, withholding is required if a nonresident employee is working in Georgia for more than 23 days out of the year, if they earned at least $5,000, or if more than 5% of the employee's total income was made in Georgia.[4]

Maine considers multiple factors including wage and days worked in the state as well. Day-specific timelines range vastly across the country. In New York a non-resident employee must perform work in the state for 14 days to have their income tax withheld. The timeline period is longer for Arizona and Illinois as they use day-count thresholds but have more extended requirements at 60 days and 30 days, respectively.

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[3] "The 2023 ROAM Index: How State Tax Codes Affect Remote and Mobile Workers." *National Taxpayers Union*, available at www.ntu.org/foundation/detail/the-2023-roam-index-how-state-tax-codes-affect-remote-and-mobile-workers

[4] "State and Local Tax Considerations of Remote Work Arrangements," National Conference of State Legislatures, November 30, 2023, available at *ww.ncsl.org*, www.ncsl.org/fiscal/state-and-local-tax-considerations-of-remote-work-arrangements#Personal-Income-Taxes

Withholding Threshold by State		
State	Withholding Threshold	Score
Alabama	None.	0
Alaska	N/A	5
Arizona	60 days.	5
Arkansas	None.	0
California	Wage threshold, $1,500.	1
Colorado	None.	0
Connecticut	16 days.	3
Delaware	None.	0
Florida	N/A	5
Georgia	Georgia-sourced wage threshold, lesser of 23 days, $5,000 in wages or 5 percent of total wages.	2[6]
Hawaii	61 days.	5
Idaho	Idaho-sourced wage threshold, $1,000.	1
Illinois	31 days.	5
Indiana	None.	0
Iowa	None.	0
Kansas	None.	0
Kentucky	None.	0
Louisiana	25 days.	4
Maine	13 days and $3,000 in Maine-sourced wage income.	3
Maryland	None.	0
Massachusetts	None.	0
Michigan	None.	0
Minnesota	Wage threshold, $12,525.	2
Mississippi	None.	0
Missouri	None.	0
Montana	None.	0
Nebraska	None.	0
Nevada	N/A	5
New Hampshire	N/A	5
New Jersey	None.	0
New Mexico	16 days.	3
New York	15 days.	3
North Carolina	None.	0
North Dakota	21 days.	4
Ohio	Wage threshold — $300 quarterly.	1
Oklahoma	Wage threshold — $300 quarterly.	1
Oregon	Wage threshold — $300 annually.	1
Pennsylvania	Wage threshold — $5,000 annually.	2
Rhode Island	None.	0
South Carolina	Wage threshold — $2,000 annually.	2
South Dakota	N/A	5
Tennessee	N/A	5
Texas	N/A	5
Utah	21 days.	4
Vermont	30 days.	4
Virginia	None.	0
West Virginia	31 days.	5
Wisconsin	Annual wage threshold — $1,500.	1
Wyoming	N/A	5

KEY INFORMATION COLUMN

In May of 2023, Montana passed a 30-day threshold for income tax liability.

Montana's reform to 30-day requirement

In May of 2023, Montana passed a 30-day threshold for income tax liability. HB 447 states that,[5]

> *"Compensation that is received by a nonresident for employment duties performed in this state, is excluded from Montana source income if:*
>
> *The nonresident is present in this state to perform employment duties for not more than 30 days during the tax year in which the compensation is received, where presence in this state for any part of a day constitutes presence" (Section 1: B)."*

HB 447 goes on to provide situations in which this law does not apply. This includes professional athletes, professional entertainers, or any other individuals who are compensated on a per -event basis. The other important language to define is what is legally considered a "day" in this legislation.

According to the new law, if nonresident employees are present in Montana for any part of a day, they are considered present for that entire day unless their presence is solely for purposes of transit through Montana.[6] This language makes it clear that an employee will not be penalized for simply passing through the state on business travel.

The Remote Obligations and Mobility Index (ROAM)

The ROAM Index is a ranking system by The National Taxpayers Union Foundation (NTUF) as to how every state treats remote workers through their tax and regulatory policies. The index considers five factors while calculating its score. They consider a filing threshold which is the period a taxpayer must work in a state before the taxpayer must file an income tax return in that respective state.

The NTUF has the highest value for states that require taxpayers to file in-state only after they work more than 30 days in that state, not calculating equivalent days worked based on a wage threshold. Reciprocity agreements, like Pennsylvania and New Jersey's policies mentioned earlier.

[5] HB 447, Montana State Legislature, 2023, available at https://leg.mt.gov/bills/2023/billhtml/HB0447.htm
[6] Montana Law Gives Nonresident Income Tax and Withholding Relief for Short-Term Business Travelers and Their Employers," *Taxnews.ey.com*, November 30, 2023, available at https://taxnews.ey.com/news/2023-0919-montana-law-gives-nonresident-income-tax-and-withholding-relief-for-short-term-business-travelers-and-their-employers

KEY INFORMATION COLUMN

By instituting 30-day filing and withholding thresholds, Idaho has an opportunity to become the 2nd-highest scoring state on the ROAM Index among states with an individual income tax, right ahead of Montana.

States accrue more points in this section by holding these reciprocal agreements with neighboring states. "Convenience of the employer" rules, are put into effect in states including Arkansas, Delaware, and others mentioned previously. Individual income tax code, considering components including rates, structure, deductions, inflation indexing, and tax treatment of married couples, among other factors. States are awarded in the index for not holding this policy and for passing legislation prohibiting the Department of Revenue from instituting them.

Lastly, the NTUF inspects Withholding thresholds, which have already been discussed in detail. Their highest standard in the withholding thresholds category is for states to adopt a threshold over 30 days. A day-specific benchmark is favorable over a wage because businesses that have multiple employees working in a state over the year can more easily hit a wage threshold even if those employees do not work in-state for very long.

NTUF says this mark ensures complete protection for businesses, ensuring that they will only face withholding obligations for employees who work a substantial amount of time in each state. Idaho currently holds a score of 10.66 out of 35, and is ranked 24th in the country.[7]

Asked about Idaho moving to a 30-day filing threshold, NTUF says:

> *"By instituting 30-day filing and withholding thresholds, Idaho has an opportunity to become the 2nd-highest scoring state on the ROAM Index among states with an individual income tax, right ahead of Montana. Idaho has a chance to be a big winner in the remote work revolution, and it shouldn't let its tax code be an impediment."*

Conclusion

While the issue of income tax relating to nonresident workers is treated differently throughout the country, Idaho should consider moving to a 30-day income tax obligation threshold.

The state needs to both encourage remote and nonresident workers to operate in Idaho and ensure that employees aren't taking advantage of a tax loophole. A 30-day threshold would accomplish both. A wage threshold proves to be very complicated in the case of an employer with employees in multiple states. The employer must take all the specific wage thresholds into consideration while making hires and sending employees to other states for meetings, conferences,

[7] "The Remote Obligations and Mobility Index," *National Taxpayers Union*, available at https://www.ntu.org/publications/page/the-remote-obligations-and-mobility-index

KEY INFORMATION COLUMN

The current threshold standard of $1,000 earned in Idaho is lacking compared to the day-specific direction that states like Montana are following.

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and other forms of business engagement. A wage threshold also disincentives entrepreneurs from organizing events like business conferences.

If the organizers know they will be obligated to pay the income tax within a given state if they exceed a certain compensation level, they will simply relocate to a state that they wouldn't be penalized in. The 30-day mark provides adequate time for nonresidents to collaborate with residents while participating in the local economy. The current threshold standard of $1,000 earned in Idaho is lacking compared to the day-specific direction that states like Montana are following.

ABOUT THE AUTHOR

Sam Cardwell lives in Boise and is an alumnus of the University of Washington and Liberty University, obtaining a bachelor's degree in political science.

Sam has worked on multiple legislative and congressional campaigns. He has experience in the governmental sphere as a legislative intern and a session aide at the Washington State Legislature.

Sam currently works at Trailmapper; a political fundraising firm with candidates up and down the ballot nationwide.

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