

AMERICAN PAYROLL ASSOCIATION

March 31, 2020

Rep. Steve Johnson, Chair
Rep. Les Mason, Vice Chair
Rep. Jim Gartner, Ranking Minority Member
Kansas Legislature, House Committee on Taxation

Re: Support for HB 2722, Establishing Tax Withholding Requirements When Certain Employees
Work in Multiple States

Dear Chair Johnson, Vice Chair Mason, Ranking Member Gartner, and Committee Members:

On behalf of the American Payroll Association (APA), we are writing to express support for HB 2722, which would establish a 30-day safe harbor from income tax withholding for nonresident employees who travel into Kansas to perform work.

About APA

APA is a nonprofit organization serving the interests of more than 20,000 payroll professionals across the United States, who are responsible for the administrative task of properly withholding and remitting state and federal taxes. APA's primary mission is to educate its members and the payroll industry about the best practices associated with paying America's workers while complying with applicable federal, state, and local laws and regulations. APA members are directly responsible for calculating wages and tax withholding for their employers.

At the federal level, APA has long supported legislation providing for a 30-day safe harbor. We note that HB 2722 is substantially similar to legislation that has been passed by the U.S. House of Representatives three times. Especially in the absence of federal action, APA appreciates individual state efforts to enact legislation that is essential to both employers and employees, small and large, public and private, union and nonunion, nonprofit and for-profit. Illinois recently enacted a 30-day safe harbor, and other states are considering the same threshold.

Specifically, APA asks for your support in passing HB 2722 for the following reasons:

- **Reducing burden through improved compliance capabilities** – Because of the extreme complexity of state tax regulations, compliance for many employers is practically impossible. A lack of adequate software systems, personnel, time, money, or other resources are some of the impediments that prevent compliance with these complex laws. Still other companies are simply unaware of the current legal framework and would be shocked to discover their own lack of compliance.

Compliance difficulties also arise from confusion about whether a business has formed a nexus for tax purposes in a state where the business does not have a physical presence or regularly provide services. For example, when an employee travels to a state to offer a one-day seminar or if a business sends employees to a state for a few days to assist in a weather emergency. HB 2722 offers employers a commonsense approach to determining state tax liability that is appropriate to employers, employees, and states.

- **Treating employees fairly** – Each year, hundreds of thousands of workers travel across state lines for short periods to conduct business. Kansas law requires that a nonresident worker have income taxes withheld beginning on the first day work is performed in the state. However, during the average business trip, a worker will not earn enough to owe income taxes in Kansas. Often, the worker will not earn enough to require that worker to file an income tax return. Yet, if nonresident income taxes have been withheld, the worker must file the return in order to recover the taxes paid but not owed. This time and expense is shared by the employer that withheld the taxes and the state that must consider the tax return and refund the money.

The provisions in HB 2722 establishing a 30-day safe harbor from taxes for nonresident employees is an equitable threshold that makes sense. In addition, the bill offers some exceptions, such as for professional athletes, entertainers, and qualified production employees, recognizing that the nature of their employment means entering a state for short periods of time.

APA urges you to enact this legislation to reduce the burden and cost of administering multistate taxes on workers and businesses. HB 2722 ensures fair and consistent handling of multistate taxation across the nation for the benefit of all Americans.

Sincerely,



Pete Isberg
Cochair, APA Subcommittee
on State and Local Topics



Bruce Phipps, CPP
Cochair, APA Subcommittee
on State and Local Topics



Carlanna Livingstone, CPP
Cochair, APA Subcommittee
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