

SECTION 1.

1. For purposes of this section:

A. "Professional athlete" means an athlete who performs services in a professional athletic event for compensation;

B. "Professional entertainer" means a person who performs services in the professional performing arts for compensation on a per-event basis;

C. "Public figure" means a person of prominence who performs services at discrete events, including, but not limited to, speeches, public appearances, or similar events, for compensation on a per-event basis. The term does not include a member of a business's board of directors or similar governing body; and

D. "Time and attendance system" means a system through which an individual is required to record the individual's work location for every day worked outside the state where the individual's employment duties are primarily performed and which is designed to allow the employer to allocate the individual's compensation for income tax purposes among all states in which the individual performs employment duties for the employer.

2. Compensation, as defined under [reference state statute], paid to a nonresident individual is exempt from the tax levied under [reference state statute] if all of the following conditions apply:

A. The compensation is paid for employment duties performed by the individual while present in this state for thirty or fewer calendar days in the taxable year;

B. The individual performed employment duties in more than one state during the taxable year; and

C. The compensation is not paid for employment duties performed by the individual in the individual's capacity as a professional athlete, professional entertainer, or public figure.

3. An employer is not required to withhold taxes under [reference state statute] for compensation that is paid to an individual described in subdivision (2) of this section, except that if, during the taxable year, the individual performs employment duties while present in this state for more than thirty calendar days, an employer shall withhold and remit taxes for every day the individual performed employment duties while present in this state in that taxable year, including the first thirty days in which the individual performs employment duties in this state.

4. The [Revenue Department] shall not require the payment of any penalties or interest otherwise applicable for failing to deduct and withhold income taxes if, when determining whether withholding was required, the employer met either of the following conditions:

A. The employer, in its sole discretion, maintains a time and attendance system specifically designed to allocate employee wages for income tax purposes among all taxing jurisdictions in which an individual performs employment duties for such employer, and the employer relied on data from that system; or

B. The employer does not maintain a time and attendance system and the employer relied on:

i. Its own records, maintained in the regular course of business, of the individual's location;

ii. The individual's reasonable determination of the time the individual expected to spend performing employment duties in this state, provided that the employer did not have actual knowledge of fraud on the part of the individual in making the determination and that the employer and the individual did not conspire to evade taxation in making the determination;

iii. Travel records;

iv. Travel expense reimbursement records; or

v. A signed, written statement from the individual of the number of days spent performing services in this state during the taxable year.

5. Compensation that is paid to a nonresident individual who serves on the board of directors or similar governing body of a business and that relates to board or governing body activities taking place in this state shall not constitute income derived from sources within this state.

6. For purposes of this subsection, an individual shall be considered present and performing employment duties within this state for a day if the individual performs more of the individual's employment duties in this state than in any other state during that day. Any portion of the day during which the individual is in transit shall not be considered in determining the location of an individual's performance of employment duties.

SECTION 2.

1. A nonresident individual who is paid a salary, lump sum payment, or any other form of payment that encompasses work performed both inside and outside of [state] shall pay [state] income tax only on the portion of the individual's income that reasonably can be allocated to work performed in [state].
2. A nonresident individual performs work in [state] when that individual is physically located in [state] when performing the work.

SECTION 3.

The tax imposed by [reference state statute] on income derived from sources within the state of [state] by persons who are nonresidents of this state, shall not be payable if the laws of the state or territory of residence of such persons, at the time such income was earned in this state, contained a reciprocal provision by which residents of this state were exempted from taxes imposed by such state on income earned in such state.

SECTION 4. This act becomes operative for all taxable years beginning or deemed to begin on or after January 1, 202X.

SECTION 5. If any provision of this act, or the application of such provision to any person or circumstance, is held to be unconstitutional, then the remainder of this act, and the application of the provisions of such to any person or circumstance, shall not be affected thereby.