HB13-1143

Colorado Legislative Council Staff Fiscal Note

STATE
REVISED FISCAL IMPACT

(replaces fiscal note dated February 13, 2013)

Drafting Number:	LLS 13-0451	**Date:**	March 4, 2013
Prime Sponsor(s):	Rep. DelGrosso	**Bill Status:**	House Second Reading
		Fiscal Analyst:	Ron Kirk (303-866-4785)

TITLE: CONCERNING ADOPTION OF THE MODEL MOBILE WORKFORCE STATUTE THAT THE MULTISTATE TAX COMMISSION APPROVED IN 2011, AND, IN CONNECTION THEREWITH, ESTABLISHING CRITERIA FOR EXEMPTING FROM STATE INCOME TAX AND RELATED INCOME TAX WITHHOLDING REQUIREMENTS CERTAIN WAGE OR SALARY INCOME EARNED WITHIN THE STATE BY NONRESIDENT INDIVIDUALS.

Fiscal Impact Summary	FY 2013-2014	FY 2014-2015
State Revenue	at least ($192,000)	at least ($394,000)
State Expenditures		
FTE Position Change		
Effective Date: This legislation affects tax returns for tax year 2014.		
Appropriation Summary for FY 2013-2014: None.		
Local Government Impact: None.		

Summary of Legislation

This bill, ***as amended by the House Finance Committee,*** exempts a nonresident individual who works in Colorado for up to 30 days from filing Colorado state income taxes on wage and salary income. The bill also exempts the employer from withholding and remitting state income taxes to the Department of Revenue on wage and salary income earned as long as the nonresident individual:

- does not receive any other income attributable to the state of Colorado such as capital gains or other Colorado source income;
- is required to file a federal tax return; and
- is not a professional athlete or entertainer, or an individual of prominence who performs services for compensation on a per-event basis, or is a public official who provides services in the nature of a speech, public appearance, or similar event.

Under current law, **nonresident** individuals are required to file a Colorado income tax return and pay taxes to the state of Colorado if they receive income from sources within Colorado, have a Colorado income tax liability for the year, and are required to file a federal income tax return. Employers of nonresident individuals, whether in-state or based in another state, are required to withhold Colorado state income taxes on this income.

Background

Reciprocal personal income tax agreements. Various states have adopted reciprocal personal income tax agreements with one or more states, including the District of Columbia. These agreements allow income to be taxed in the state of residence when it is earned in another state as long as the income-source state is a party to the reciprocity agreement. States enter into such agreements because, in addition to greatly reducing the administrative reporting burden, no revenue loss is anticipated. Generally, reciprocal agreements apply only to wage and salary income. *Fifteen states and the District of Columbia have reciprocal agreements with bordering states but none of these states has a reciprocal agreement with Colorado.* Colorado does not have a reciprocal personal income tax agreement with any other state.

De minimis standards for nonresident wage and salary income. Forty-three states impose a personal income tax and the majority of these states require income tax withholding on compensation earned within their jurisdiction. Most states do not have a de minimis threshold to determine when income tax should be withheld from compensation for services performed by a **nonresident** within a state. However, a few states administer these standards in one of two ways: (1) a minimum-number-of-days threshold (e.g., Hawaii has a 60-day exemption; Maine has a 10-day exemption); or (2) a dollar threshold (e.g., Idaho has a $1,000 income exemption; Maryland has a $5,000 income exemption).

State Revenue

Income tax revenue will be reduced by *at least* $192,000 in FY 2013-14 (half-year impact) and *at least* $394,000 in FY 2014-15. This reduction will be split between the General Fund and the State Education Fund. The number of nonresidents who earn wages within Colorado for 30 days or less during any tax year is unknown. In addition, the amount of wages they earn in Colorado is unknown. However, because Colorado does not have a reciprocal agreement with another state, enacting the bill's de minimus requirement for income taxes to be paid by a nonresident in Colorado will reduce Colorado taxable income and, thus, Colorado income tax collections.

The following conservative assumptions were used to determine what is assumed to be the minimal reduction in income taxes resulting from the bill. It is assumed that ten percent of nonresident filers with less than $10,000 of wages earned in Colorado during the tax year were present and working in the state for 30 or fewer days. According to the Department of Revenue, these taxpayers filed 0.1 percent of all returns and 4.9 percent of nonresident returns. On average, these taxpayers reported about $4,000 in wages earned within the state of Colorado during tax year 2010. These wages were grown based on expectations for wage growth between 2010 and 2014 and converted from gross income to taxable income to determine the overall revenue impact of the bill.

State Expenditures

The bill is expected to have a minimal workload impact in the Department of Revenue, which can be absorbed within existing resources.

Departments Contacted

Revenue