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REMOTE WORK AND STATE TAX COMPLEXITY: THE HIGH COST TO INTERSTATE EDUCATORS

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ABSTRACT

Remote work appears to be an apparent and growing trend. In particular, as higher education continues to expand its remote learning delivery models, the number of academic workers who provide instruction remotely also increases. In addition to the current remote faculty, 518 remote higher education positions are available (HEJ 2021) to teach the 6.9 million students enrolled in distance education courses (Ruiz & Sun, 2021). Consequently, payroll services must become well-versed in staying current in a complex tangle of state tax laws and requirements. This paper examines individual knowledge of state income tax obligations by remote interstate employees and their desire to obtain a refund of the overpayment of those taxes. Based on asynchronous interviews of 58 faculty members at a single institution, our results suggest that most do not understand state income tax regulations. Employees view taxes as unfair compared to their level of tax knowledge (Harris, 1989). The institution deducts the tax from earnings, and the employee is burdened with requesting a refund. Just as important, it can be argued that tax professionals who complete the tax returns of these employees lack knowledge and understanding of the nuances of the state income tax system as well.

JEL: H24, J61

KEYWORDS: Personal Income Tax, Overtaxed, Tax Compliance, Tax Complexity, Remote Workers, State Taxes

INTRODUCTION

Individuals know they are required to pay taxes (Nugent, 2013). Depending on the state and whether the employee is a resident, non-resident, or lives in a state that reciprocates with the state of employment, the personal income tax may not apply to the employee. Because of the knowledge needed to determine if the personal income tax should be collected from an employee, taxpayers are indifferent to comply. As noted by Roth et al. (1989), tax compliance is determined when the taxpayer submits the required filings of all tax returns on time, accurately reporting the proper tax liability as per applicable tax law. Tax complexity is due to the increased sophistication in tax law (Richardson & Sawyer, 2001). Tax complexity can be due to various confusion of forms, procedures, or computations. However, it is sometimes caused by the complexity of the rules that govern tax collection (Carnes & Cuccia, 1996). State income tax was introduced in the United States in 1911 by Wisconsin (Lutz, 1920). When reviewing state income taxes nationally, on average state income taxes account for 24.1% of a state's source of tax revenue (Mayo et al., 2021). We interviewed academic faculty from a New York regional college in this study. We find that New York's tax revenues are used for education, hospitals, highways, public welfare, funding state police, and other state and local government expenditures (Mayo et al., 2021).

In New York, the personal income tax rate is a graduated tax, meaning that the more a taxpayer earns, the higher the associated tax rate charged to the earner. In 2020, as a married filing jointly taxpayer, the personal income tax rate ranged from 4.5%, earnings from $0 to $17,150, to 8.82% earnings $2,155,351

and above. New York assesses state income tax on all earnings of a household, not just what the employee earns in the state (Scarboro, 2021). There are large numbers of workers who commute from a neighboring state each day to work. For these workers, there is often state tax reciprocity. For example, more than 799,432 workers commute into New York from other states, giving it the largest number of out-of-state workers. Similarly, The District of Columbia has 69% of its workers who reside in a state (not the District of Columbia), resulting in the highest percentage of out-of-state workers (US Census data, On the map, 2019). However, in this paper, we discuss something different. Our study is specific to workers who are not living in the state as with the examples above, but additionally, they do not actually work in the state due to the remote nature of their work. This phenomenon is growing as more individuals work remotely.
To our knowledge, a study on the overpayment of state income tax by remote employees is currently missing from the tax complexity literature. This study addresses this gap in the literature by examining a set of remote workers at a single employer. We study the knowledge these employees have of state income tax regarding their withholding, their opinions on the tax, and their attitude towards the potential overpayment of the tax. Our study suggests that typical employees do not understand the basics of tax accounting, much less the assessment procedure of state income taxes. The remainder of this paper is organized into four sections. The literature review is in the subsequent section. Next, the data and methodology are discussed. Then, analysis and presentation of the findings are presented. Finally, the conclusion and further research recommendations will complete the paper.

LITERATURE REVIEW

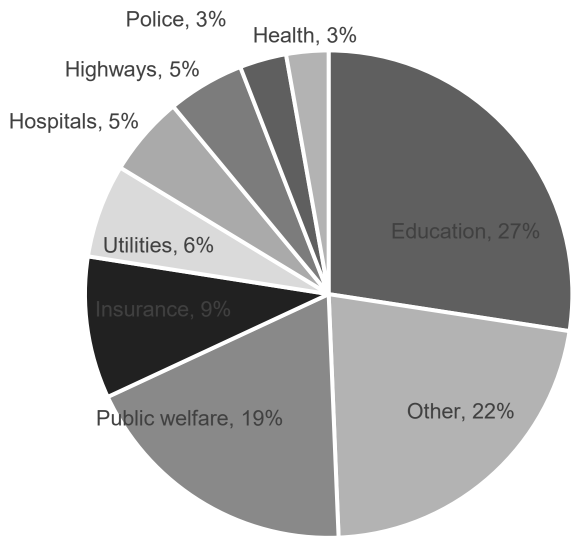
This section summarizes previous literature that briefly introduces the history of state income tax, issues of rule complexity on tax collection, and the increasing rate of remote work.

State Tax History

In 1911 a tax was levied on non-residents and foreign corporations that earned income within Wisconsin (Lutz, 1920). Thus Wisconsin was the nation's first state to adopt a personal income tax. State tax funds aid local governments, education, healthcare, transportation, corrections, pension, care for those with mental illness and disabilities, assistance to low-income families, economic development, state police, environmental projects, parks and recreation, and housing. In a 2019 combined state and local government finances summary gathered by the census, the majority of state and local income taxes are spent on education, followed by other expenditures such as miscellaneous costs associated with the identified areas, and public welfare, as can be seen in the chart below (Mayo et al., 2021). Figure 1 shows Sate and Local spending by category.

The personal income tax impacts a consumer's decision on where, when, and how to work. New York was the eighth state to enact such a tax in 1919, with a maximum rate of 3% on earnings greater than $50,000. The city of New York imposed its income tax in 1966 on residents and non-residents who work in New York City limits (Urbach, 1995). Wages are taxed in the state where they are earned unless the employee works in a state that does not withhold state income tax. Withholding is when income tax is deducted from wages by employers to pay employees' income taxes associated with the earnings within the state, for state income tax, and within the United States, for federal income tax. Like federal income tax withholdings, state income tax withheld from an employee's earnings is reflected on the pay stub each payroll period. This originated from the model establishing the personal income tax that said: "…that all persons should be taxed fairly and fully at their place of domicile for the personal benefits they derive from the government" (Lutz, 1920, p. 83).

Figure 1: State and Local Government Spending



Mayo et al. 2021 This figure shows where states and local governments spend their income tax dollars. Almost half of all income tax dollars are spent on education and other services beyond healthcare, safety, and public welfare.

<u>How an Employee Is Taxed</u>

An employee is taxed on their earnings based on the location of the job being performed. It is in the determination of the location that a reference to tax laws is needed. According to the New York State Department of Taxation and Finance (2006), a personal income tax will be assessed to non-resident individual's taxable income that is derived from sources in New York. If an employee has a home office and it is a bona fide employer office, it is considered a normal workday, just outside the state and subject to the personal income tax. The employer must have established a bona fide employer office for the employee to owe New York State income tax on income earned. There are several factors to apply to determine if a home office is a bona fide employer office.

a-The primary factor, or.

b-at least four of the secondary factors and three of the other factors.

A primary factor to establish a home office is that it contains or is near specialized facilities that cannot be made available at the employer's place of business, but those facilities are available at or near the employee's home, then the home office will meet this factor.

A secondary factor in establishing a home office, where at least four of the factors must be met, consists of:

1) *The home office is a requirement or condition of employment.*
2) *The employer has a bona fide business purpose for the employee's home-office location.*
3) *The employee performs some of the core duties of his or her employment at the home office.*
4) *The employee meets or deals with clients, patients, or customers on a regular and continuous basis at the home office.*
5) *The employer does not provide the employee with designated office space or other regular work accommodations at one of its regular places of business.*
6) *Employer reimbursement of expenses for the home office.*

Along with four of the secondary factors, 3 other factors must be met to establish a bona fide home office.

> *1) The employer maintains a separate telephone line and listing for the home office.*
> *2) The employee's home office address and phone number are listed on the business letterhead and/or business cards of the employer.*
> *3) The employee uses a specific area of the home exclusively to conduct the business of the employer that is separate from the living area and will not qualify if the area is used for both business and personal purposes.*
> *4) The employer's business is selling products at wholesale or retail and the employee keeps an inventory of the products in the home office for use in the employer's business.*
> *5) Business records of the employer are stored at the employee's home office.*
> *6) The home office location has a sign indicating a place of business of the employer.*
> *7) Advertising for the employer shows the employee's home office as one of the employer's places of business.*
> *8) The home office is covered by a business insurance policy or by a business rider to the employee's homeowner insurance policy.*
> *9) The employee is entitled to and claims a deduction for home office expenses for federal income tax purposes.*
> *10) The employee is not an officer of the company.* (Eristoff, 2006, p. 2-5)

As a non-resident of the state of New York, online faculty do not meet the primary factor, nor do they meet at least four of the secondary or three of the other factors. Having earned income in another state, no withholdings are collected from the state of residence, where the income is derived, if applicable. Since the income by a resident is earned within the state of residence, the state has the authority to tax the resident. The resident receives the benefits afforded to them by that state and thus should share in the tax burden (Hashmi, 2012). The state tax will be assessed at the time of the annual federal tax return filing on April 15.

Tax Complexity

Tax complexity can significantly affect a government entity's ability to collect the tax due to inaccurate filings. Nugent (2013) suggests that increased tax complexity may result in a moral ambiguity resulting in tax underpayment. Specifically, while people may understand their moral obligation to pay taxes, they may have trouble determining how much in payments fulfills this obligation. Consequently, if calculating the correct amount of tax due is a difficult task, a taxpayer may perceive there to be moral ambiguity and underpay their taxes. Subsequently, increasing tax complexity may potentially encourage taxpayers to circumvent their obligation to pay taxes. Cox and Eger (2006) found that tax complexity contributes to increased tax non-compliance amongst state tax payments in state taxes.

Remote Work

There is a notable increase in the number of employees who work from home. It is anticipated that the percentage of employees working from home at least one day a week will increase from 5.5% to 16.6%, and 10% of full-time employees will work from home five days a week instead of one (Courtney, 2021). The Survey of Business Uncertainty explains that by 2025, 36.2 million Americans will be working remotely, representing 22% of the workforce (Courtney, 2021). Many of these remote employees can live in a state that differs from their employer's state. This increase in remote employees may increase the risk to employers and employees; since the resulting complexity of navigating the state tax requirements of this remote work will result in incorrect tax withholding, tax payments and possibly increase tax non-compliance due to the ambiguity of these rules. Further, consistent with Nugent (2013), tax ambiguity could create moral ambiguity resulting in increased tax underpayments. This paper extends the work of

Saad (2014) by using a set of remote employees from the same employer to determine the level of knowledge, understanding, and attitude toward the state income tax being assessed to them. Saad interviewed thirty participants. Using this qualitative data gathering technique, he determined the level of knowledge of the complex income tax system by the taxpayers. The results show that employers are engrained toward paying taxes, and more so when those taxes support public services.

DATA AND METHODOLOGY

Respondents in this study were adjunct or part-time academic faculty of an accredited state academic institution in the US state of New York. This subgroup of workers was selected given the increased likelihood that adjunct and part-time faculty may reside outside the state and subsequently teach remotely. Our interviews took place between September 2021 and October 2021. All respondents had a formal education with a minimum of a master's degree. Data collection was accomplished using emailed-based asynchronous interviewing. Qualitative research is known to allow researchers to obtain in-depth and valuable information. However, qualitative research can be time-consuming and sometimes expensive. The asynchronous email interview is a qualitative research method where questions are asked and followed up via multiple online exchanges between researcher and participant within a particular time frame (Ratislavová & Ratislav, 2014). The literature argues that email interviewing is advantageous in qualitative research since it is cost and time-efficient while maintaining the ability to obtain in-depth information. Email interviews are less costly than phone interviews or face-to-face interviews. It is simpler to transcribe an email interview and maintain accuracy, given the communication is already available in a written form. The researcher can conduct multiple interviews simultaneously, which also saves time. (East et al., 2008; Selwyn & Robson, 1998). Just as email distribution of electronic surveys directly replaces the role of traditional mailing, asynchronous interviewing (electronic interviewing) uses email as one-to-one interviewing (Selwyn & Robson, 1998).

This type of interview method is beneficial for the convenience of the interviewee; however, we acknowledge that it may lack some of the spontaneity by the participant, as the participant has a chance to write out their responses (Bampton, R., Cowton, C., & Downs, Y. 2013; Burns 2010). State-affiliated colleges and universities in New York state generally make their list of employees, including faculty, public; therefore, potential respondents could be identified and selected using the online source for payroll records openpayroll.com (2021) for the entity. This sample selection method was beneficial because of the nature of the study and the need to stay within the chosen state of New York. A total of 290 employees of the university were contacted. The 28 respondents identified as New York residents were excluded since they were not adversely affected by the tax; others identified as non-residents. A New York state return has a statute of limitations when filing an amendment for a refund. A taxpayer must file an amended return within three years of the date the original return was due or filed, or within two years of the date, the tax was paid, whichever is later (Hiller, 2019). Each non-resident will have up to three years of earnings information that will be included in the data calculations.

There were several disadvantages to our methods. Firstly, this method uses a narrow scope of one employer for the sample, which is not a sufficient representation of the population of remote workers. Consequently, this study is not intended to represent the state of New York or other states. Instead, it presents a set of responses that consider that the move to remote work; and resulting tax complexity could signal a more significant problem worthy of further and expanded research. Secondarily, we faced the problem of some employees not responding to our email. Some recipients communicated that they were suspicious of the inquiry for fear of being part of a 'fishing' scheme or repercussions from the employer. Subsequently, this may have contributed to some employees not responding to the email request for an interview.

There are three sections in the data collection process. Section one consists of salary information from 2018-2020 from the employer. This information was collected from publicly available sources. Section two collected the participant's state of residency, which then led to the identification of "Resident," "Nonresident," and "Reciprocating." The US Supreme Court ruled against double taxation in the 2015 case between Comptroller of the Treasury of Maryland v. Wynne. This decision states that two or more states cannot tax the same earnings (Supreme Court, 2015). Consequently, a non-reciprocating state indicates that the worker must file a separate state tax return in the state where the income was earned. New York does not reciprocate with any other state (Paille, 2018), so the status of "Reciprocating" was eliminated. Section three estimated the amount of personal income tax from the New York earnings and the impact to the respondent and the state of New York. Several broad assumptions as to the total household earnings of the employees can be made to project the extent of the problem, but only the New York earnings are used to estimate the tax withheld.

RESULTS AND DISCUSSION

Our interviews took place between September 2021 and October 2021. The authors contacted the respondents via email and asked to participate in a short interview on state tax responsibilities. Respondents represented all professional disciplines employed by the same employer in New York. The disciplines include accounting, biology, business, communications, early childhood development, economics, education, finance, healthcare, history, information systems, law, management, nursing, philosophy, psychology, and Spanish (Puccio, 2021). A total of 290 potential participants were invited to be interviewed via email, and 58 agreed to participate. Twenty-eight identified as New York residents were excluded. The remaining 30 participants comprise 11 different majors. Another benefit of an asynchronous email interview is that no additional transcription is needed.

Saeed (2020) suggests that economists and social philosophers have theories on what constitutes a sound tax system. The elements include equity, the certainty of imposition, the convenience of payment, and the economy in the collection. Our questions reflected the theory of certainty of imposition and convenience of payment. The state of New York sets the standard for the assessment, not the employer. As a general rule, employees are subject to the laws of the city and state where they physically perform work (Cirner, 2021). For our sample, residents of New York are not impacted and thus excluded. Only employees who are not physically performing work within New York are included. To be considered derived from New York sources, the income must be earned while in New York or while working remotely in a bona fide home office paid for by the employer (Eristoff, 2006). As remote employees, the non-resident respondents do earn their income from the state of New York, but not while in the state of New York, nor do they work in a bona fide home office paid for by the employer. The results of our email-based interview answers show that non-resident employees are being assessed by New York personal income tax. New York State Tax Law Section 601(e) imposes a personal income tax on a non-resident individual's taxable income that is derived from New York sources (Eristoff, 2006). Of the 58 respondents, 30 responses indicate that they may be paying taxes that they do not owe since they are not New York state residents. As can be seen from Table 1, a majority of the New York non-resident participants are residents of New Jersey followed by Florida, Georgia, Minnesota, Ohio, Pennsylvania, Arizona, California, Colorado, Connecticut, Maryland, Rhode Island, Utah, and Virginia.

Table 1: Residence of Participants

State of Residence	
AZ	1
CA	1
CO	1
CT	1
FL	5
GA	3
MD	1
MN	2
NJ	8
OH	2
PA	2
RI	1
UT	1
VA	1

This table shows the state of primary residence of interview participants.

While the results of these interviewees may not be representative of remote workers in the state, based on projections, it could have widespread implications for employees and taxes withheld. Using the data provided from openpayroll.com (2021) the earnings for each survey participant were collected for the previous three years and accumulated by year for the Table 2 below. The earnings were then divided to calculate each employee's average amount of earnings. Based on the New York state income tax rates for each respective year (Scarboro, 2021, Loughead & Wei, 2021, Loughead, 2021), the estimated amount of New York tax withheld was calculated.

Table 2: Estimated State Tax for Non-Resident Employees

Year	Non-Resident NY Earnings	Avg Non-Resident Earnings/ Employee	Tax Rate	NY Tax Withheld/ Employee	Non-Resident NY Tax Withheld
2018	$353,485	$16,833	4.50%	$757	$15,907
2019	$367,806	$14,712	4.50%	$662	$16,551
2020	$655,069	$22,589	4.50%	$1,016	$29,478
Total	$1,376,360	$54,134		$2,435	$61,936

This table shows the earnings of the employees, in total and earnings per employee average amount. These employees reside in another state and are labeled as non-resident. The New York state income The tax rate is then multiplied by the average earnings per employee to determine the amount of tax withheld from each employee and, then calculated again for the total number of non-resident employees in the sample.

According to a senior finance professional for the institution, Non-resident employees are expected to work with their tax preparer, who should know the regulations associated with personal income tax, correct any state taxes that are collected, and follow procedures to reclaim their earnings. A Harris poll conducted on behalf of the American Institute of CPAs surveyed 2,053 adults in the US in October 2020 and found that 47% of respondents are unaware that each state can have tax laws associated with remote work (Vera, 2020). Thus, the average non-resident employee lacks an understanding of the basic rules concerning personal income tax. Of the 30 non-resident participants, only 5 teach a business discipline, as can be seen in Table 3. The majority of the participants teach healthcare. None of the 30 participants claimed to be a tax expert.

Table 3: Teaching Discipline

Discipline	
Accounting	2
Biology	1
Early Childhood Development	1
Economics	1
Education	2
Finance	1
Healthcare	11
Information Systems	5
Management	1
Nursing	3
Psychology	2

This table shows the academic areas taught by the participants of the interview.

Our results suggest that the complexity of the state income tax rules appears to cause some confusion surrounding what is owed in state taxes. A majority of the respondents live in states that assess a personal income tax but were unaware of the tax rules associated with personal income tax in other states, or being assessed a tax they may not owe. Based on our responses, which represent employees that work for an institution located in the state of New York, but do not earn their wages while physically working in the state; over three years they may have been assessed and overpaid over sixty thousand dollars in personal income tax. This estimate is solely based on earnings from the New York employer, not the additional earnings of New York taxes when filing a New York state return. If the employee or the associated tax preparer is not knowledgeable of the ability to request a refund by submitting an amended state tax return, the state of New York will retain all of those funds. All 30 non-resident respondents indicated a willingness to file amended returns to reclaim these possible overpayments.

CONCLUDING COMMENTS

This paper explores the personal income tax assessment of non-resident employees of a New York employer using an interview to collect data. The results suggest that the tax complexity of state taxes, specifically related to remote workers, may lead to incorrect tax withholding, filing, and resulting payments. The findings offer several insights for taxpayers that work remotely in a state other than their employing state. Results show that most do not understand their state income tax obligations. There is also some willingness to amend prior-year tax returns to obtain a refund from the state. Employees view taxes as unfair compared to their level of tax knowledge (Harris, 1989). The institution deducts the tax from earnings, and the employee is burdened with requesting a refund. The taxpayer's knowledge of tax rules does not significantly affect their compliance with those rules (Vera, 2020). As the study discovered, employees appear not to question the deduction due to their apparent confusion regarding the taxes due. Employees perceive the tax to be correct due to their lack of knowledge of the tax guidelines. This overpayment of personal income tax is very beneficial for the state collecting the assessment but can be refunded to the employee by filing an amended state tax return. This study offers some insight for further research. A greater understanding of the personal income tax assessment by employers on non-resident remote employees is needed for future expanded research. This is significant, as the potential full-time remote workers in 2025 are projected to increase to 36.2 million by the Survey of Business Uncertainty (Courtney, 2021). Additional research is needed to determine if the growth in remote workers will perhaps lead to increased personal income tax in states where employees reside rather than in the employer's state.

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