



Revenue Ruling 22-96-1
Supersedes Revenue Ruling 22-91-2
(See also Revenue Ruling 22-96-2)

Individual Income Tax-Compensation Paid to Certain Rail Carrier Employees Working in More Than One State. COMPENSATION PAID TO RAIL CARRIER EMPLOYEES WHO REGULARLY WORK ON THE RAILROAD IN MORE THAN ONE STATE CANNOT BE TAXED EXCEPT BY THE EMPLOYEES' STATE OF RESIDENCE.

Advice has been requested as to which railroad employees are covered by the exemption from state income tax under 49 USCS §11502 (Public Law 104-88).

Nonresident rail carrier employees who perform regularly assigned duties on a railroad in more than one state can only be taxed by their state of residence.

This provision does not extend to all employees of a rail carrier, but applies only to those rail carrier employees working regular duties on the "railroad". This would include train crews, track maintenance personnel, and switch yard, freight yard and freight depot employees who regularly work in more than one state on: switches, spurs, tracks, terminals, terminal facilities, freight depots, freight yards, the roads used by the railroad and owned by it or operated under an agreement, bridges, car floats, lighters, ferries, and other intermodal equipment used in connection with the railroad.

An employee is considered to be performing regularly assigned duties in more than one state when his or her job duties require the employee to perform services in at least two states on a systematic basis. Performing regularly assigned duties in more than one state does not include emergency, infrequent, or sporadic work in more than one state.

Nonresident employees of a rail carrier working both in Nebraska and outside the State in a headquarters or other office or location, and not on the "railroad", would not qualify for the exemption from Nebraska income tax. Their employer must withhold Nebraska income tax on their compensation in accordance with Withholding Tax Regulation 21-006. A nonresident who works on the railroad in Nebraska, and not regularly in any other state would, likewise, be subject to Nebraska income tax and withholding.

APPROVED:

A handwritten signature in cursive script, appearing to read 'M. Berri Balka'.

M. Berri Balka
State Tax Commissioner

November 7th, 1996