

Global Rewards Update: UNITED STATES OF AMERICA

November 2009

NEW INCOME TAX AND WITHHOLDING RATES IMPOSED IN CALIFORNIA, NEW YORK AND NEW JERSEY

BACKGROUND

In response to recent budget shortfalls and increased spending, many state governments in the U.S. have adopted new tax regimes as a means to increase revenue in their respective jurisdictions. The scope of these changes varies from state to state, and states have chosen to target different taxpayer activities. However, one of the more common changes to state and local taxation has to do with higher income tax rates and the corresponding employer withholding obligation. While many states have chosen to implement new income tax and withholding rates, we have identified some of the more significant changes below. Specifically, the new legislation regarding income tax and withholding rates in California, New York and New Jersey are discussed below.

CALIFORNIA

California has adopted new budget measures in response to the state's budget deficit and the fiscal emergency declared by Governor Arnold Schwarzenegger in July. The tax provisions that are part of the enacted budget legislation include accelerated individual and corporate estimated tax payment requirements, increased withholding for individuals, and new provisions regarding backup withholding.

Increased Withholding Rates

California has implemented new, increased withholding rates which apply to amounts paid on or after November 1, 2009. The new law increases the applicable withholding rate on employee wages by 10%. Also, for supplemental wages other than stock options and bonus payments, the withholding rate is increased to 6.6% (former 6%). With regard to stock options and bonus

payments that constitute wages, the withholding rate is increased to 10.23% (formerly 9.3%).

Backup Withholding

In addition to the increased withholding rates, the new law partially conforms to the federal backup withholding rules included in the Internal Revenue Code. The new California law requires backup withholding at a rate of 7% applicable to certain non-wage payments with respect to rents, prizes and winnings, compensation for services (including bonuses), and to other fixed or determinable annual or period gains, profits, and income. These new provisions are not applicable to payments of interests or dividends, or to any release of loan funds made by a financial institution in the normal course of business. This law change applies to payments made on or after January 1, 2010.

NEW YORK

New York State

Effective May 1, 2009, employers paying supplemental wages to employees who are residents of or work in New York State must withhold New York State income tax at a rate of 11.03%.

Previously, supplemental wages were subject to New York State income tax withholding at a rate of 7.35%. Of note, this 11.03% withholding rate is actually higher than the highest marginal rate of tax imposed on income in New York State (currently, 8.97% on all income in excess of \$500,000, regardless of filing status).

Additionally, New York has implemented a Metropolitan Commuter Transportation Mobility Tax ("MCTMT"), payable by employers. The MCTMT is a payroll tax equal to .34% of an employer's total payroll expense for employees working in New York City (including all 5 boroughs), as well as Rockland, Nassau, Suffolk, Orange, Putnam, Dutchess, and Westchester counties. The MCTMT applies retroactively to employers, other than public school districts, as of March 1, 2009, to certain public school districts as of September 1, 2009, and to self-employed individuals as of January 1, 2009.

Yonkers and New York City

In line with the above mentioned increased withholding rate in NY state, where supplemental wages are paid to Yonkers (NY) residents, employers must now withhold City of Yonkers income tax at a rate of 1.103%, previously .735%; supplemental wages paid to Yonkers nonresidents who work in Yonkers remains subject to the .50% City of Yonkers nonresident tax withholding rate. The income tax withholding rate applicable to New York City personal income tax on New York City residents on supplemental wages paid in remains at 4.00%.

NEW JERSEY

In Assembly Bill 4102, the New Jersey legislature imposed new tax rates on taxable income in excess of \$400,000 for calendar year 2009. Where taxable income is

- more than \$400,000 though less than \$500,000, an 8% rate of income tax will apply
- between \$500,000 and \$1,000,000, a 10.25% rate of income tax will apply, and
- taxable income in excess of \$1,000,000 will be subject to a 10.75% rate of income tax.

The legislature has confirmed that these rates will apply retroactively to January 1, 2009.

To help account for the fact that the new tax rates will apply retroactively to all income received since the beginning of the year, the state has also imposed a mandatory tax withholding rate of 12% on all wages paid in excess of \$400,000. The new 12% withholding rate was effective on October 1, 2009 and employers must withhold at the new rate on all wages paid to an employee in excess of \$400,000 for the remainder of the year. The state has also announced that beginning January 1, 2010, withholding rates will revert back to the 2009 rates in effect prior to this latest announcement (e.g. the highest withholding rate will be 9.9% on wages paid in excess of \$500,000).

ACTION

- Employers should review their payroll systems to ensure that the new withholding rates have been implemented.
- Employers should consider communicating these changes, and their impact on compensation, to employees.

People to Contact

For assistance in this matter or any other issue related to the operation of your global rewards plans, please contact your local Deloitte global rewards consulting services advisor or email us at: globalequity@deloitte.com and a global rewards consultant will contact you.

[Home](#) | [Security](#) | [Legal](#) | [Privacy](#)

1633 Broadway
New York, NY 10019 – 6754
United States

© 2009 Deloitte Touche Tohmatsu.

Deloitte refers to one or more Deloitte Touche Tohmatsu, a Swiss Verein, and its network of member firms, each of which is a legally separate and independent entity. Please see www.deloitte.com/about for a detailed description of the legal structure of Deloitte Touche Tohmatsu and its member firms.

 **Deloitte RSS feeds**