



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

Individual Income Tax-Compensation Paid to Certain Motor Carrier Employees Working in More Than One State. COMPENSATION PAID TO MOTOR CARRIER EMPLOYEES AS DEFINED BY FEDERAL LAW WHO REGULARLY WORK IN MORE THAN ONE STATE CANNOT BE TAXED EXCEPT BY THE EMPLOYEES' STATE OF RESIDENCE.

Advice has been requested as to which motor carrier employees are covered by the exemption from state income tax under 49 USCS §14503 (Public Law 104-88).

Nonresident employees of a motor carrier providing transportation in interstate commerce subject to federal regulation or of a motor private carrier can only be taxed by their state of residence if they regularly perform assigned duties with respect to a motor vehicle in more than one state. Such employees include: operators of commercial motor vehicles, independent contractors when operating commercial motor vehicles, mechanics, freight handlers, and individuals who directly affect commercial motor vehicle safety in the course of employment. Such employees do not include employers, or employees of the United States Government, a State, or a political subdivision of a State.

The exemption does not extend to all employees of a motor carrier but applies only to those motor carrier employees performing regular duties in more than one state. This would include, for example, over-the-road drivers operating between 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 motor carrier performing regularly assigned duties both in Nebraska and outside the State in a headquarters or other office location would not qualify for an exemption from Nebraska income tax. Instead, Nebraska income tax must be withheld by their employer in accordance with Withholding Tax Regulation 21-006. A nonresident who works for a motor carrier 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 that reads 'M. Berri Balka'.

M. Berri Balka
State Tax Commissioner

November 7, 1996



printed on recycled paper