



# **Payroll Withholding for Internationally Mobile Employees**

**New York APA  
April 17, 2014**

# Agenda

## **1. David Leboff, President, Expaticore Services**

- U.S. Outbound Expat Assignment
- Tax Treaties
- Resident Aliens
- Non-Resident Aliens

## **2. Nishant Mittal, Co-Founder, Monaeo**

- Current audit climate
- “A day in the life of...”
- Practical solutions



# U.S. Outbound Expat Assignment (Secondment)

- U.S. Payroll (Home)
  - U.S. FIT withholding required modified by
    - § 911
    - Mandatory foreign withholding
  - U.S. social tax (unless totalization requires host SS)
  - U.S. federal/state unemployment
  - U.S. pension/401(k) contributions



# Forms

- U.S. citizens
  - Form 673 — Statement for Claiming Exemption From Withholding on Foreign Earned Income Eligible for the Exclusion(s) Provided by § 911
  - Form W-4
- U.S. Greencard holders
  - No Form 673
  - Form W-4

# Tax Treaties

- If treaty is in force and employee is in country less than 183 days, then not taxable in foreign country
- Same true for employees working in the US for less than 183 under a treaty
- Charges must be borne by sending country



# Resident Aliens

- If resident, treat as US citizen
  - Foreign paid amounts under a US employment are reportable
- If certificate of coverage is presented, then shut off FICA/Medicare
- If employee is on “Net Pay” then update payroll for foreign-paid items before processing
  - Utilize non-taxable deduction to prevent double payment of foreign amount
  - If employer is covering tax costs per policy, then gross up taxes

# Non-Resident Aliens (Pub 519)

- Wages paid to non-resident alien for services performed within the U.S. for either a U.S. or foreign employer subject to
  - FIT, FICA/Medi, FUTA
- Unless:
  - 90 days or less during taxable year and
  - Compensation is \$3,000 or less in the aggregate
- State tax withholding separate issue

# Non-Resident Aliens

- FIT withholding on NRA income is at 30% unless
  - Lower treaty rate or treaty exemption is claimed
    - Taxpayer files form 8233
      - May be exempt by substantial presence test and treaty provisions
      - Non-exempt portion of Scholarships/Fellowships are subject to flat 14% or lower treaty rate
  - Graduated withholding rates can be applied by payor (payor's choice)
    - Form W-4 (SSN only – not ITIN) is required
      - If no SSN yet write “Applied For”
      - Single (regardless of marital status)
      - One allowance
        - » Canada, S. Korea and Mexico may claim other
      - Write NRA on line 6
      - Do not write “Exempt”
    - If no W-4 filed then Single/”0”



# Non-Resident Aliens

- Withhold FICA, Medicare on reportable income unless a totalization agreement applies
  - Hard to do with business visitors as no SSNs
- F, M, J, Q (students) visa holders
  - FIT exempt on scholarship/fellowship income
    - e.g. tuition, mandatory university fees, books, supplies, equipment)
  - Social security exempt on authorized employment as long as status has not changed to resident
  - Taxable portion is reportable (Use Form 1042/1042-S)
    - e.g. room, board, travel
- State taxation likely applies as they do not recognize treaty exemptions
- SUTA/FUTA apply
  - Without SSN state unemployment hard to report

# Annual Spend

**US TAXES**

**\$4**

trillion

**COMPLIANCE  
COST**

**\$350**

billion

**LOCATION-  
BASED**

**\$10**

billion

Source: IRS Data, industry reports, Monaeo analysis

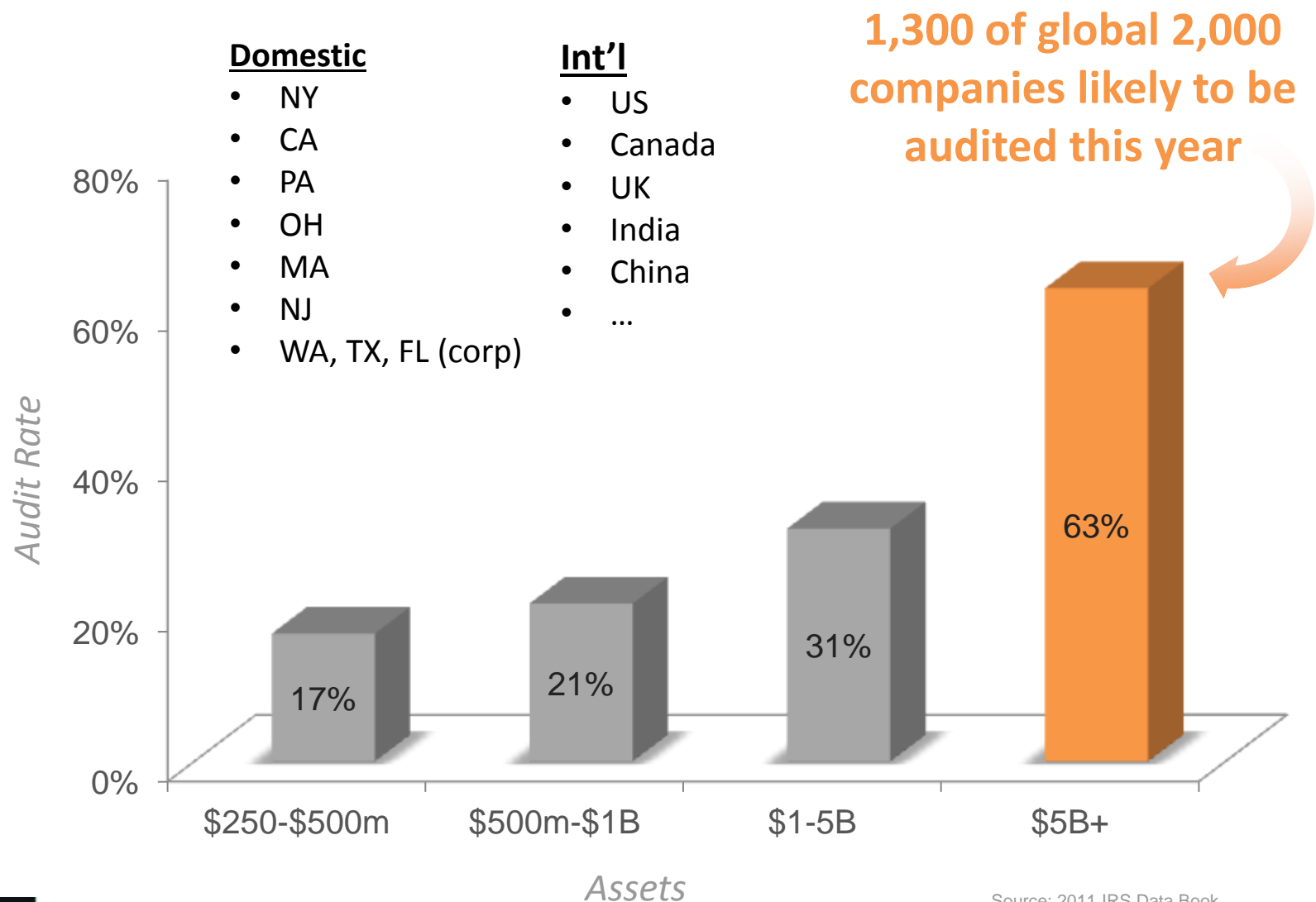




*"Politically, who better to go after than those who do not even claim to be residents of the state?"*

- Brian Gordon, former NYC audit head, Dept. of Finance & Taxation

# Odds Are Stacked Against Us



Source: 2011 IRS Data Book

## A day in the life of...

- Technology company
- HQ: California, USA
- Employees: 1,000
- Travelers: 200 (active)
  - New York
  - Washington
  - Texas
  - UK

...FAST  
FORWARD 3  
YEARS



**\$1,400,000**

audit exposure + costs

# CALENDAR

			?	1	2	3
4	5	6	7	8	?	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

# Audit Exposure

**20%**

withholding misallocation

**\$1,300,000**

in payroll W/H exposure





# Time and Resources Spent

Payroll and Tax Staff

**480**  
hours

Travelers

**400**  
hours

Tax Advisors

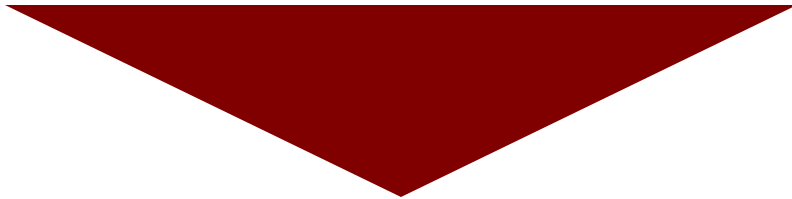
**\$40k**  
fees

**\$100,000**  
in audit costs

# Current Process is **Inadequate**

## Ad hoc

- No timely visibility
- Unknown exposures
- Manual, inefficient
- Inaccurate, incomplete



**Costly | Painful | Risks Credibility**

# Where do you start? Have a process.

## What?

### DIAGNOSE

periodically review exposures

- Payroll w/h
- Nexus
- PE

### REBALANCE

‘true-ups’ and ‘tune-ups’

- Payroll w/h
- New jurisdictions
- New legal entities
- Feedback to business teams

### PREVENT

anticipate, avoid, comply

- Continuous (*or frequent*) monitoring of employee travel
- Extract actionable insights for tax, payroll, HR processes

# Where do you start? Have a process.

## How?

### IDENTIFY STAKEHOLDERS

- Tax – *domestic, international?*
- Payroll?
- HR – *mobility, exec comp & benefits?*
- At-risk traveler population

### IDENTIFY DATA SOURCES

- Timesheets
- Travel logs; travel authorizations
- T&E records
- Calendars

# Leverage Technology

- ✓ **Increase compliance**
- ✓ **Reduce costs**
- ✓ **Save on taxes**



**AUTOMATIC  
LOCATION  
CAPTURE**



**DATA & REPORTS  
FOR AUDITS**

# Increase Compliance





# Reduce Costs

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## Payroll Withholding by Country

Pay Period Jan 1 - June 30, 2013  
 Working Days 125  
 Entity Name [REDACTED]  
 Withholding Trigger 30

Employee ID	Locations	W/H Status	# Days	Allocation
xxxx4658	United States (office)	Withhold	12	21%
	United Kingdom	Withhold	57	46%
	Germany	Withhold	42	34%
	France	None	14	--
xxxx7428	United States (office)	Withhold	30	61%
	Canada	Withhold	49	39%
	Mexico	None	27	--
	Brazil	None	19	--
xxxx4208	United States (office)	Withhold	83	100%
	Brazil	None	17	--
	Argentina	None	14	--
	Venezuela	None	11	--
xxxx3852	United Kingdom (office)	Withhold	9	20%
	Spain	Withhold	51	41%
	Portugal	Withhold	49	39%
	Greece	None	9	--
	Morocco	None	5	--
	Turkey	None	2	--
xxxx7067	United States (office)	Withhold	32	50%
	Italy	Withhold	63	50%
	Greece	None	12	--

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## Nexus Report — Global

Period Jan 1 - Mar 31, 2013  
 Working Days 66  
 Entity Name [REDACTED]

Country	State	# Employees	# Total Days
United States	IL	524	16,768
United States	NY	737	15,477
United States	CA	773	10,822
United States	TX	462	9,702
United States	WA	497	5,964
United States	...	...	...
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United Kingdom		312	7,176
India		112	2,016
China		242	1,452
Germany		78	1,092
Brazil		59	767
South Korea		45	720
Venezuela		42	672



# Save on Taxes

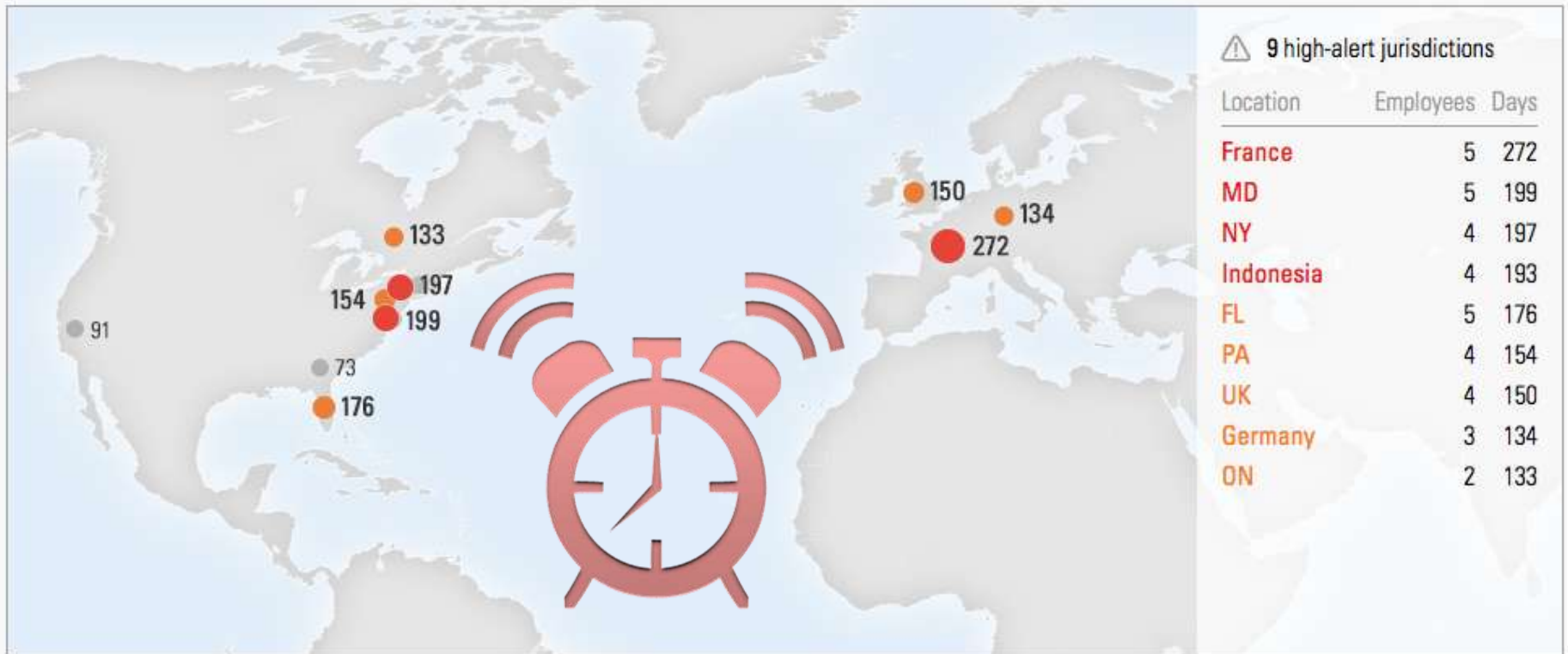
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Employees

Log out



## NEXUS + FOOTPRINT



# Cost-Benefit

5-10x

ROI

## SAVINGS

- Eliminate exposures
  - Employment tax (e.g., payroll w/h)
  - Corporate tax (e.g., UBT in NYC, apportionment)
- Optimize tax planning
  - Real-time footprint views (nexus/PE)
  - Early-warning alerts
- Minimize time, resource, and pain in an audit

# Thank You.

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