BLOOMBERG BNA AND ERNST & YOUNG LLP

2015 MULTISTATE PAYROLL TAX COMPLIANCE REPORT

FINAL SURVEY RESULTS

Bloomberg BNA

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About the Author

Bloomberg BNA's **Allison M. Gatrone** is the primary author of this report. Allison covered state income tax withholding and other payroll issues for Bloomberg BNA's *Payroll Library* and *Payroll Decision Support Network* until early October 2015. She now serves as copy editor for Bloomberg BNA's *Health Law Reporter* and *Pharmaceutical Law & Industry Report.* The following individuals contributed to the study design, data collection, analysis, writing, copyediting and production of this report.

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INTRODUCTION

Tracking employee movement across state and country boundaries presents many challenges to payroll departments and can open employers up to compliance risks. The 2015 Multistate Payroll Tax Compliance Survey by Bloomberg BNA and Ernst & Young LLP sought to identify the most common payroll practices and areas of risk so that organizations can maintain better state tax compliance for their mobile, domestic employee population as well as foreign, nonresident employees working temporarily within the U.S.

This final report on the survey's results is representative of several areas of employer interest, such as risk sensitivity, experience with state income tax withholding audits, methods used for securing work location data and frequency for withholding and paying nonresident income taxes. In addition, data by industry and by employee size are included. This final report also includes an appendix listing the questions and the response results.

Study Design, Methodology and Presentation

Bloomberg BNA's and Ernst & Young LLP's 2015 Multistate Payroll Tax Compliance Preliminary Survey Report was based on an extensive survey conducted among payroll professionals and executives from June 10, 2015, to Aug. 21, 2015. The survey was conducted online, with several reminders to respond. As an incentive to participate, respondents will receive a complimentary electronic copy of the full survey report. A total of 506 organizations provided usable data for analyses.

Several steps were taken to ensure participants' confidentiality. The survey was hosted on a secure website to ensure that information submitted by respondents could not be observed or obtained by third parties. Respondents were assured that neither individual respondents nor the organizations they represented would be identified without express permission from the participants. Apart from those exceptions, only aggregate data and statistics are presented and analyzed in this report.

Profile of Participating Employers

The responding payroll professionals represented a wide variety of enterprises, institutions and industries, as Figure 1 shows below. Of the 506 employers that provided data for analysis in this report, 63 percent were nonmanufacturers, 19 percent were manufacturers and 17 percent were nonbusiness organizations. Seventy-two percent of participating organizations had at least 1,000 employees working within the U.S. who were either residents or nonresidents, and 28 percent had fewer than 1,000 employees working within the U.S. who are either residents or nonresidents.

Fifty-three percent of responding organizations employed at least one U.S. citizen or resident who works outside of the U.S., while 47 percent of establishments reported no U.S. citizens or residents who worked abroad. Fifty-one percent of organizations' employees worked temporarily or permanently in one to 25 states, and 49 percent of organizations reported that their staff worked temporarily or permanently in 26 or more states. One-half of responding organizations were registered for income tax withholding in one to 25 states, and one-half were registered in 26 or more states.

Figure 1
Profile of Participating Employers

Industry	Manufacturing Nonmanufacturing Nonbusiness	19% 63% 17%
Number of employees working within the U.S. (both resident and nonresident)	Small (Fewer than 1,000) Large (1,000 or more)	28% 72%
Number of U.S. citizens and U.S. residents working outside the U.S.	None 1 to 999 1,000 or more	47% 43% 10%
Number of states where employees temporarily or permanently work	1 to 25 26 to 50	51% 49%
Number of states where company is registered for income tax withholding	1 to 25 26 to 50	50% 50%

Source: Bloomberg BNA Note: Percentages may not add to 100 due to rounding. A BNA Graphic/bey15g01

Definition of Industry Sectors

The manufacturing sector includes basic goods manufacturing (such as agriculture, chemicals, lumber, primary metals, mining, paper and petroleum), intermediate goods manufacturing (such as food, furniture, fabricated metals, rubber and plastic) and advanced goods manufacturing (such as aerospace and defense, automotive, computer and electronic products, machinery as well as medical and health care products).

The nonmanufacturing sector includes organizations in industries such as construction, transportation, warehousing, utilities, wholesale and retail trade, finance, insurance, real estate, consulting, communications, publishing, information services, telecommunications as well as business, personal and miscellaneous services.

Nonbusiness operations include government entities, membership organizations and associations, health care facilities, educational institutions and social service organizations.

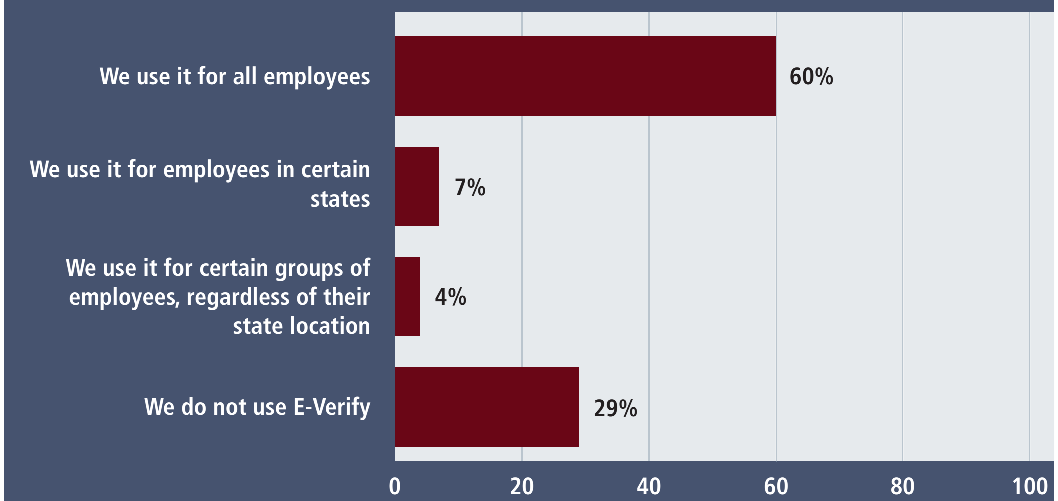
Use of E-Verify

In addition to focusing on employment tax compliance for out-of-state workers, the survey asked employers about their use of E-Verify, an internet-based system operated jointly by the Social Security Administration and the Department of Homeland Security's U.S. Citizenship and Immigration Services. The system permits participating employers to electronically verify almost instantaneously the employment eligibility of new hires through the SSA and USCIS databases.

Nationwide, employer participation in the E-Verify program is generally voluntary, but once in, employers must verify all new hires, regardless of national origin or citizenship status. Certain federal contractors and subcontractors are required to use the system, and some states now mandate employer participation in E-Verify.

Sixty percent of employers surveyed used E-Verify for all employees and 29 percent said they did not use the program at all. Seven percent used E-Verify for employees only in certain states, and 4 percent used it for certain groups of employees regardless of their location.

Figure 2
Use of E-Verify



Source: Bloomberg BNA
A BNA Graphic/bey15g02

Of responding employers with 1,000 or more employees, 67 percent said they use E-Verify for all employees while only 43 percent of smaller employers reported using E-Verify for all workers. There were no notable differences in the use of E-Verify for all workers by industry. Please see Appendix Section A, Table A2 for full demographic breakdowns.

TEMPORARY, PERMANENT MULTISTATE EMPLOYMENT

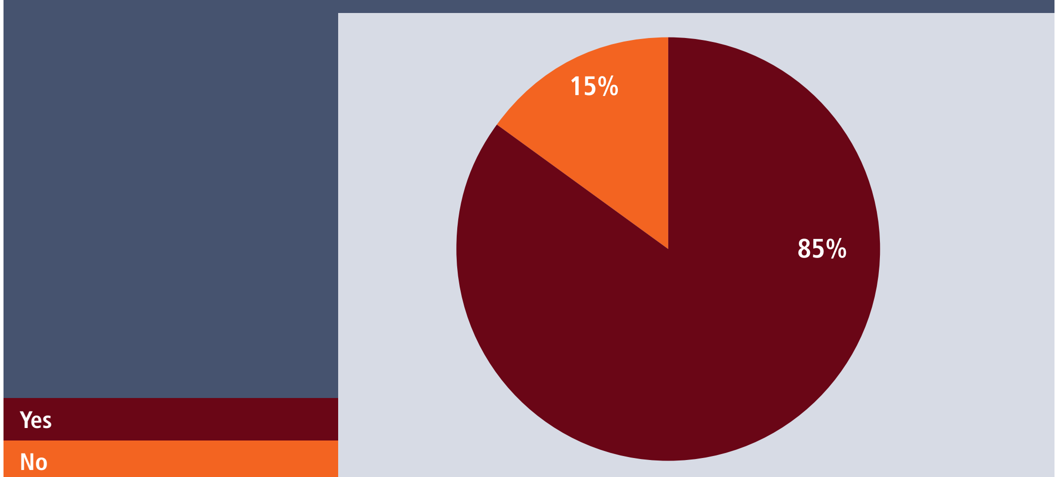
Tracking employees who cross state and jurisdictional lines for work can result in a host of compliance difficulties for employers. When sending workers on business trips, employers can overlook the requirements of many states to tax the income earned in the state by those nonresident workers.

Some states have laws and regulations, and even policies, that guide employers on when a worker traveling to that state has to start counting the income earned for state income tax purposes, and when the requirements to report that income are triggered.

On the other hand, many of the states do not directly address this issue in their laws and regulations, which often means the letter of the state law requires all earnings from work within the state to be taxed and the employer is liable for withholding that tax and reporting the earnings.

Eight-five percent of the employers surveyed had employees who work temporarily or permanently, including short-term business travel, outside of their resident state or local jurisdiction.

Figure 3
Employees Work Temporarily or Permanently Outside of their Resident State or Local Jurisdiction



Source: Bloomberg BNA   Note: Nonresponse is less than 1%.   A BNA Graphic/bey15g03

By industry, nonbusiness employers were the least likely to have employees who work temporarily or permanently outside of their resident state or local jurisdiction (67 percent). Nonbusiness includes government entities, membership organizations and associations, health-care facilities, educational institutions and social service organizations, whose employees may be more likely to work locally and travel less.

Smaller employers, those with less than 1,000 employees, are also less likely to have employees who work temporarily or permanently outside of their resident state or local jurisdiction (70 percent, compared with 90 percent for larger businesses). Please see Appendix Section B, Table B1 for full demographic breakdowns.

Timely Notification of Location Changes

Overall, most payroll departments that said they had multijurisdictional workers were generally provided with timely notification about changes of domestic work locations (69 percent) and U.S. domestic residences (72 percent). There were no noticeable differences by organization size, but by industry, only 59 percent of nonbusiness entities that had multi-jurisdictional workers were provided with timely notification about changes in work locations, compared with 65 percent for manufacturing employers and 72 percent for nonmanufacturing employers.

> ***Ernst & Young LLP Observation:*** This variance can most likely be attributed to the fact that cross-border travel occurs less frequently in the nonbusiness industry, and is therefore, more likely to be overlooked when it does occur. See Figure 3 above.

Changes in U.S. domestic residences was timely received by 72 percent of employers that had multijurisdictional workers, with smaller employers reporting they received timely notification of the residency changes more often than larger employers (78 percent compared with 70 percent).

Nonbusiness entities again had the fewest responses affirming they received timely notification of domestic residency changes (63 percent compared with 74 percent for nonmanufacturers and 70 percent for manufacturers).

Of all employers responding to the survey, 66 percent said they had payroll systems that adequately accommodated income tax withholding for multiple work states in the same payroll period, 22 percent responded no and 12 percent said they did not know. When it came to multiple local jurisdictions, systems were less accommodating, with 56 percent responding that their systems were adequate, 25 percent responding they were inadequate and 18 percent did not know. There was little variation in answers based on industry or size. Please see Appendix Section A, Table A2 for full demographic breakdowns.

State and Local Auditing

At the state level 40 percent of surveyed employers with mobile domestic workers had been audited with 21 percent saying they were audited in the past year. Ten percent had been audited two to three years ago, 3 percent four to five years ago and 6 percent more than five years ago. Sixty percent of respondents said they had not yet been subject to a state nonresident income tax audit.

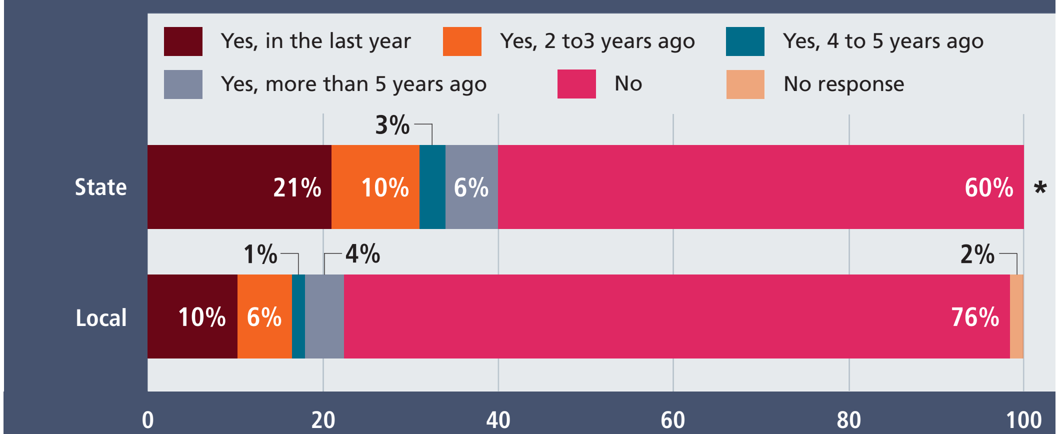
By industry, those in nonmanufacturing were subject to state audits the most in the past year (23 percent), while 19 percent of the responding manufacturing employers reported being subject to such audits. Only 10 percent of the nonbusiness entities reported being audited by a state for nonresident income taxes.

By size, smaller employers were markedly less likely to experience audit examination than larger companies (7 percent and 25 percent respectively).

At the local level, of those employers that reported having multijurisdictional workers, 21 percent of respondents with mobile domestic workers said they had been audited by a local jurisdiction for nonresident tax issues; 10 percent had been audited in the past year, 6 percent two to three years ago, 1 percent four to five years ago and 4 percent more than five years ago. Two percent did not respond whether they had been audited at the local level.

Nonmanufacturing businesses and larger companies were more likely that other demographic categories to report experiencing a local income tax audit for nonresidents. Please see Appendix Section B, Table B3 for full demographic breakdowns.

Figure 4
Subject to a State or Local Nonresident Income Tax Audit



Note: Percentages are based on the number of employers that have employees that work temporarily or permanently (including short-term business travel) outside of their resident state or local jurisdiction.
Percentages may not add to 100 due to rounding.

Source: Bloomberg BNA *Less than 1% for *No response.* A BNA Graphic/bey15g04

While audit rates may depend on the state in question, many states, such as New York, have a high rate of audit, said Martin Armstrong, CPP, DBA, vice president of Payroll Shared Services for Time Warner Cable.

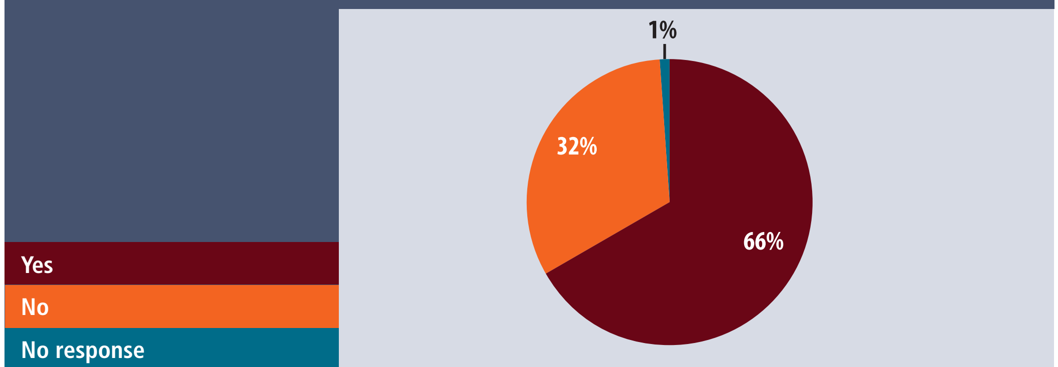
> ***Ernst & Young LLP Observation:*** There is significant risk of income tax withholding audits coming from local taxing authorities, particularly for businesses with nonresident employees where local tax requirements are substantial, such as localities in Pennsylvania.

The Problem of Trailing Compensation

Tracking equity compensation and bonuses earned while work was performed in other states, but paid later, and correctly sourcing these amounts presented a challenge to surveyed employers with mobile workers. Thirty-two percent of organizations surveyed did not source compensation to the state earned when determining income tax withholding on equity compensation, bonuses and other trailing compensation. Such a noncompliance rate is not surprising because employers may not have adequate tracking in place to properly source when and where amounts were earned, said Armstrong, who is a member of Bloomberg BNA's Payroll Library Advisory Board.

Figure 5

Source Compensation to the State Earned when Determining Income Tax Withholding on Equity Compensation, Bonuses and other Trailing Compensation



Note: Percentages are based on the number of employers that have employees that work temporarily or permanently (including short-term business travel) outside of their resident state or local jurisdiction.
Percentages do not add to 100 due to rounding.

Source: Bloomberg BNA   A BNA Graphic/bey15g05

Fewer nonbusiness employers (20 percent) fail to source equity and bonus compensation than those in manufacturing (35 percent) and nonmanufacturing (34 percent), according to the survey results. More than one-third of small employers said they failed to appropriately source that compensation (39 percent) while 30 percent of the larger employers responded they did not source such compensation.

> ***Ernst & Young LLP Observation:*** Payment of nonqualified deferred compensation and equity compensation by a third party also contributes to noncompliance because sometimes the third party has no system in place to consider historical work place information.

Forty-four percent of responding employers with multijurisdictional workers that did not adequately source trailing compensation cited a lack of historical data concerning employees' work locations as a reason for not sourcing the compensation to the state earned. Thirty-five percent said that their organization's policy for doing so had not yet been approved by management, 24 percent said that their third-party provider could not accommodate their needs and 22 percent responded that they were not aware the issue.

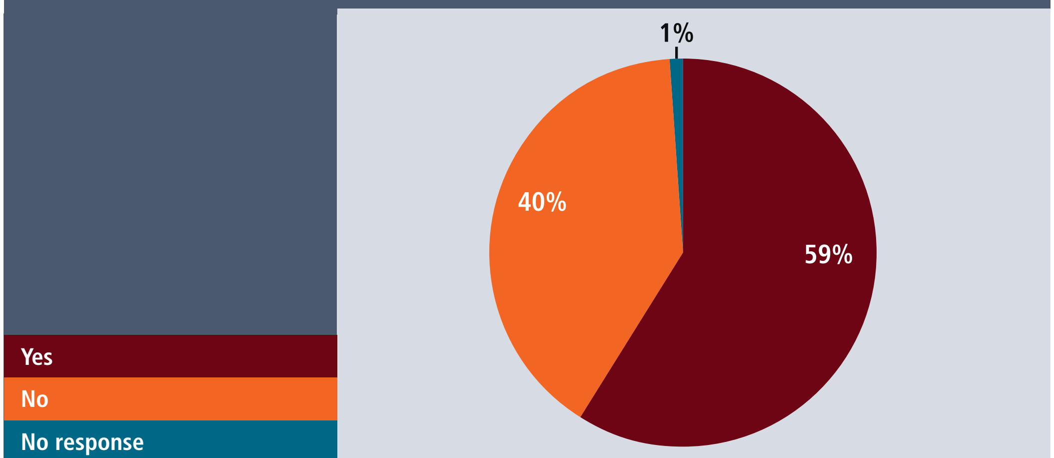
A particular issue with correctly sourcing trailing compensation is that there are not many vendors that provide tracking services for this compensation, said Patrick McKenna, CPA, director of tax for Prudential Financial. Most payroll departments must source the compensation manually or design their own sourcing program, he said.

The fact that states can determine their own treatment of equity compensation, such as exercised stock options, means there are many inconsistencies in tax treatment. Since employers generally remain liable for the failure to withhold state income taxes, the withholding issue can lead to costly errors if employers do not have a firm understanding of their obligations to each relevant state.

Tracking Employees Across State Lines

Filing and remitting on multistate income tax withholding requires tracking employee movement and ensuring withholding is submitted to the correct states. Fifty-nine percent of respondents with mobile domestic workers have a program for withholding nonresident state income taxes. (See Figure 6 below.)

Figure 6
Program for Withholding Nonresident State Income Taxes



Note: Percentages are based on the number of employers that have employees that work temporarily or permanently (including short-term business travel) outside of their resident state or local jurisdiction.
Source: Bloomberg BNA
A BNA Graphic/bey15g07

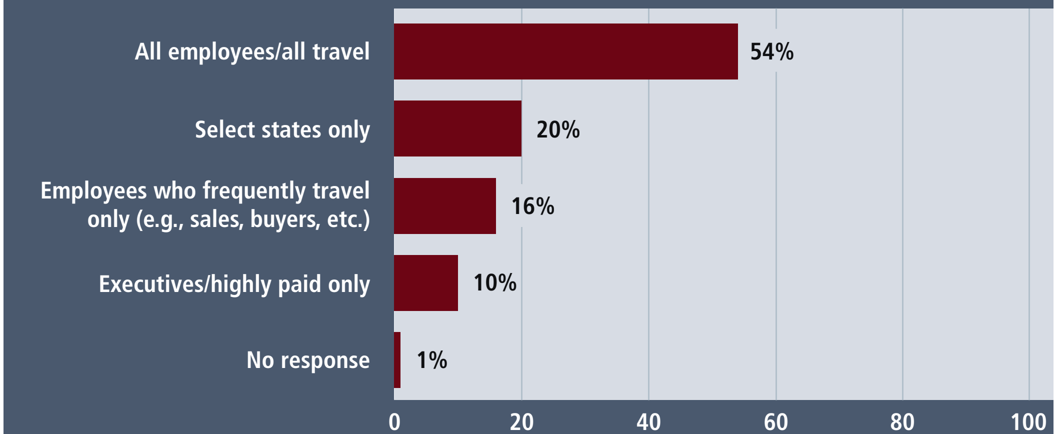
Most of these employers (54 percent) included all employees and travel in their nonresident state tax withholding programs, 16 percent included only employees who travel frequently such as salespersons and buyers, 20 percent had programs only in select states and 10 percent limited their programs to only include executives and highly paid employees. One percent did not respond. (See Figure 7 below.)

Sixty-two percent of nonmanufacturing businesses with multi-jurisdictional workers reported having a program for withholding nonresident income taxes, compared to 52 percent for responding manufacturers and 56 percent for nonbusiness employers. By size, larger employers are more likely to say they have a program for withholding nonresident state income taxes from affected workers than are smaller employers (62 percent compared with 52 percent, respectively).

Manufacturing employers (46 percent) are the least likely to include all employees in programs for withholding nonresident state income taxes. Nonbusiness employers are most likely to include all employee groups in their program (61 percent), followed by nonmanufacturing (55 percent). There were no notable differences in the programs for withholding by size of employer. Please see Appendix Section B, Table B6 for full demographic breakdowns.

Ernst & Young LLP Observation:Historically, the service industry has been the target of withholding tax audits, a fact that has sensitized the industry to the importance of compliance. Currently, the withholding tax audit net is much broader, and this is likely to improve compliance across many other industries.

Figure 7
Employee Groups Included in Program for Withholding Nonresident State Income Taxes



Note: Percentages are based on the number of employers that have a program for withholding nonresident state income taxes. Percentages do not add to 100 due to rounding.

Source: Bloomberg BNA A BNA Graphic/bey15g08

The most popular methods used for tracking employee movement across jurisdictional boundaries included employee timesheets (39 percent), ad hoc employee reporting (32 percent), expense reporting systems (32 percent) and third-party technology, such as GPS (6 percent).

Manufacturing employers tend to track employee movement across state lines using ad hoc reporting (41 percent) and expense reporting systems (39 perceent). Nonmanufacturing employers tend to favor employee timesheets (43 percent), and nonbusiness entities are mostly split on how they track employee movement across state lines. Please see Appendix Section B, Table B6 for full demographic breakdowns.

Courtesy Withholding, Assistance

Among employers responding that had employees residing outside the work state, 40 percent provided courtesy withholding for the resident states, 34 percent chose not to provide it for any employees and 26 percent provided courtesy withholding for certain employees.

The overall results for courtesy withholding of state taxes were generally matched by employers in the three industry categories.

Looking at employers by size, about two-thirds of organizations provided courtesy withholding to at least some employees. The differences are in the nuances. Smaller employers were more likely to provide state income tax courtesy withholding to all affected workers, but larger employers were more likely to offer such a program for only some employees. This likely is because the larger a company becomes, the more difficult it is to provide a courtesy program like this to all employees.

Fewer surveyed employers provided courtesy withholding for taxing localities where workers reside: 31 percent provided it for all employees residing in those localities, 42 percent chose not to provide it for any employees and 25 percent provided it only for certain employees. Again, the overall results for locality withholding were generally matched by industry, but variances occurred by size of employer. More small employers responding said they provided courtesy withholding for employee's resident localities to all employees than larger employers, but larger employers were more likely to offer such a program to some, but not all, employees. Please see Appendix Section B, Table B2 for full demographic breakdowns.

Providing courtesy withholding for employees to states when an employer does not have a business presence can indicate nexus for an employer where it did not previously exist, Armstrong said. He added that once nexus is created, an organization can be subject to other reporting requirements, thereby increasing compliance concerns.

However, some employers choose to provide courtesy withholding and take into account the additional compliance concerns to decrease tax filing burdens like estimated tax payments and possible tax penalties for employees who live in one state and work in another, said McKenna, who also is a member of Bloomberg BNA's Payroll Library Advisory Board.

> ***Ernst & Young LLP Observation:*** While simply providing courtesy income tax withholding does not create nexus, many state taxing authorities incorrectly assert nexus exists based on that activity, leaving employers with the time consuming task of proving they are not doing enough business in the state to be required to uphold additional tax requirements.

Most employers (68 percent) that have a program for withholding nonresident state taxes did not pay employees' out-of-state nonresident income tax liabilities for short-term assignments; however, 17 percent grossed up for certain employees, and 15 percent grossed up for all employees. Nearly three quarters (73 percent) of respondents did not assist employees in the cost incurred for the preparation of state nonresident income tax returns for short term assignments, with 15 percent choosing to assist in the preparation cost for all affected employees and 13 percent assisting certain employees.

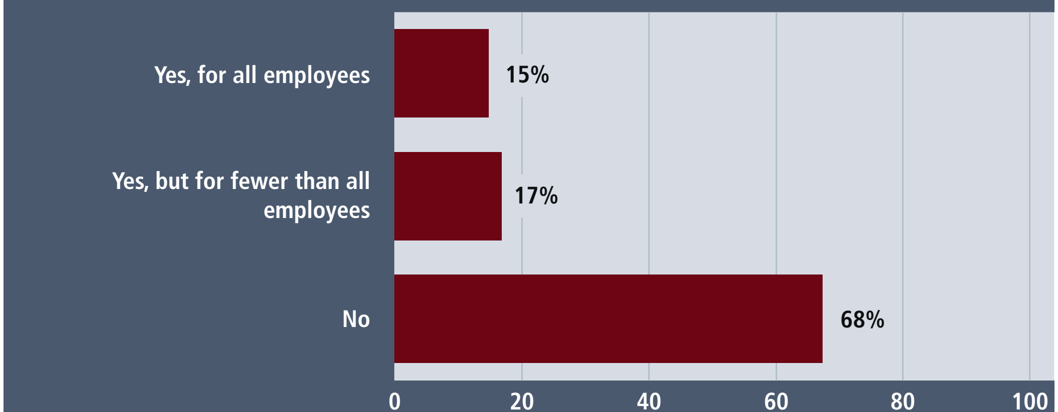
The number of employers by industry responding they pay out-of-state income tax liabilities for short term assignees also was low, with only 9 percent of non-business entities having that practice for all affected employees, while 17 percent of those employers in manufacturing and 16 percent of nonmanufacturing businesses had such a program in place. Only 8 percent of small employers gross-up taxes for all short term assignees, with 17 percent of large employers applying the benefit across-the-board.

Twenty-two percent of manufacturing employers gross-up for such taxes for fewer than all employees impacted, while 15 percent of nonmanufacturing and nonbusiness entities reported having the practice.

As for assisting with the costs employees incur for preparing their personal nonresident returns for short-term assignments, the likelihood such a program for all affected employees is available is higher for manufacturing businesses and nonbusinesses (20 percent and 21 percent, respectively) than for nonmanufacturing employers (12 percent). There were not notable differences by employer size of organizations reporting that they help fund the preparation of state nonresident income tax returns for all short-term assignees.

Figure 8

Pay State Nonresident Income Tax for Short-Term Assignments for U.S. Domestic Employees (Gross Up)



Note: Percentages are based on the number of employers that have a program for withholding nonresident state income taxes.

Source: Bloomberg BNA

A BNA Graphic/bey15g06

Following State Guidelines

Because the complexity of tracking the state and local tax statuses for mobile workers, even the most conscientious employers are challenged to ensure all various requirements for taxation by locality are met. Many employers, as a business practice, decide to set an internal length of time standard for out-of-state assignments before activating tracking and withholding procedures.

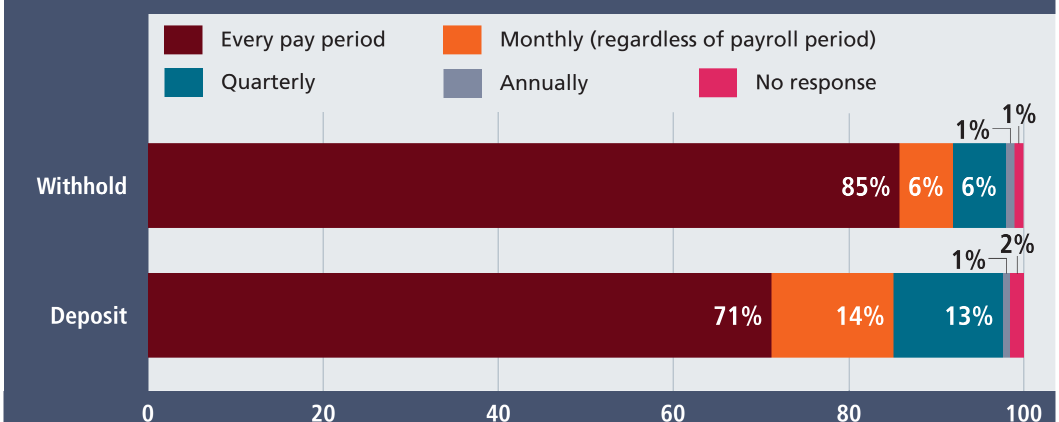
Almost half (48 percent) of employers with programs for withholding nonresident state income taxes said they follow all state guidelines concerning any de minimis threshold at which state nonresident income tax withholding requirements could be disregarded. Of the rest of the organizations responding, 9 percent set their threshold from zero to 5 days, for 6 percent the threshold is 6 to 10 days, 13 percent follow an 11-to-14 day threshold and 7 percent said their programs' threshold is 15 to 20 days. Fifteen percent of employers responding said they disregard state nonresident requirements for employees working for more than 20 days. Two percent did not respond.

Employers in the nonbusiness category said they follow all state guidelines 58 percent of the time; nonmanufacturers, 48 percent and responding manufacturers follow all state guidelines 39 percent of the time. There were no major differences from the overall for large (47 percent) and small (51 percent) employers.

Once withholding starts, 85 percent of employers with a nonresident state income tax withholding program said they withheld taxes every pay period, with 6 percent withholding monthly (regardless of pay period), 6 percent withholding quarterly and 1 percent withholding annually.

For depositing taxes, 71 percent deposit withheld nonresident taxes every pay period, 14 percent deposit monthly (regardless of pay period), 13 percent deposit quarterly and 1 percent deposit annually. Two percent did not respond. These survey results may reflect the fact that employers often are required to make deposits of withheld state taxes according to the volume of amounts withheld over a period of time, so those employers with a single employee in a state may indeed be allowed to make less frequent deposits.

Figure 9
How Often Organization Withholds and Deposits Nonresident State Income Tax



Note: Percentages are based on the number of employers that have a program for withholding nonresident state income taxes. Percentages do not add to 100 due to rounding.

Source: Bloomberg BNA A BNA Graphic/bey15g09

W-2 Issues

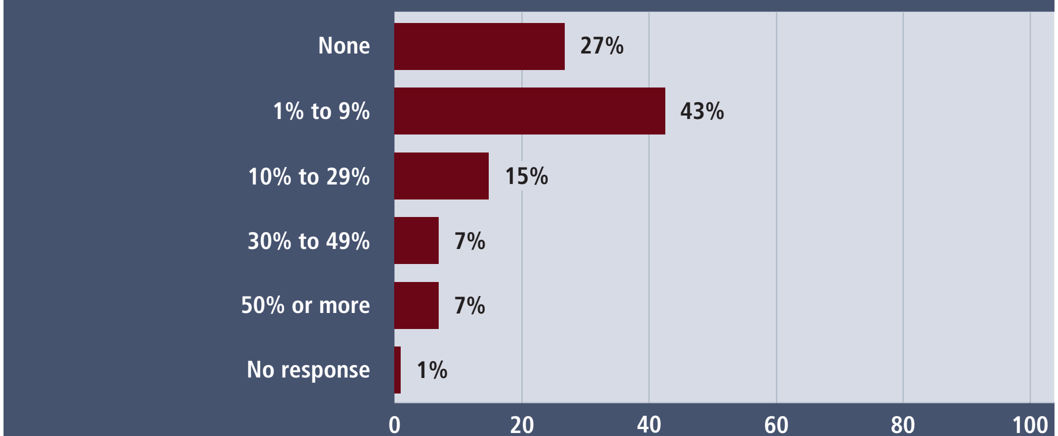
Difficulties in tracking mobile workers can translate to more issues at year end, particularly with the need to file corrected Form W-2, Wage and Tax Statement, because of errors. The survey results, however, show that 43 percent of responding employers with employees working outside their resident state or local jurisdiction said fewer than 10 percent (1 percent to 9 percent) of their corrected

Forms W-2 were attributed to multistate employment issues. Twenty-seven percent have no corrected Forms W-2 that could be blamed on some aspect of multistate employment. There remains 15 percent of the employers that said from one-tenth to under one-third of corrected Forms W-2 result from multistate issues, 7 percent of employers said that three-tenths to under a half of their corrected Forms W-2 result from multistate issues, and 7 percent attribute one-half or more than of their corrected Forms W-2 to multistate issues.

The only notable variation to these overall totals by industry and size was for small employers with fewer than 1,000 employees. Thirty percent of the smaller employers responded that 1 percent to 9 percent of their corrected Forms W-2s could be attributed to multistate tax employment. Please see Appendix Section B, Table B3 for full demographic breakdowns.

Figure 10

Proportion of Corrected Forms W-2 that Concern Multistate Employment



Note: Percentages are based on the number of employers that have employees that work temporarily or permanently (including short-term business travel) outside of their resident state or local jurisdiction.

Source: Bloomberg BNA

A BNA Graphic/bey15g10

While the rate of corrected Forms W-2 stemming from multistate taxation errors was shown by the survey to be relatively low, employers should be aware of upcoming challenges associated with the trend of state revenue departments pushing back Form W-2 deadlines to Jan. 31 in an effort to prevent fraud, said Verenda Smith, deputy director of the Federation of Tax Administrators. The shortened deadline would give employers less time to find errors before submitting Forms W-2 and therefore possibly increase the need to make corrections after submitting the forms, she told Bloomberg BNA.

Staying Abreast of Changes

Forty-two percent of surveyed employers with mobile domestic workers relied on third-party tax advisers to assist them with their multistate tax compliance. The size of the employer mattered little. Of those responding employers with 1,000 or more employees in the U.S., 43 percent said they relied on a tax adviser, while 39 percent of employers with fewer than 1,000 such workers used such services. By industry, 36 percent of the nonbusiness respondents said they used a third-party tax adviser to assist with U.S. multistate tax compliance, while the use for manufacturers (41 percent) and nonmanufacturers (44 percent) were more in line with the overall results.

To keep up with changes to increase state and local tax law and regulatory compliance, responding employers with mobile domestic workers used several methods. Seventy-seven percent used a professional publisher such as a payroll news service or research library to keep track of state payroll tax changes. Other state change tracking methods include payroll organizations (65 percent) and third-party tax advisers (38 percent).

By size, smaller employers were more likely than larger employers to say that they didn't use any listed source to keep track of state and local payroll tax changes (8 percent and 3 percent, respectively). Taking that difference into account, when sources are used, businesses of all sizes follow the overall trend; tending to favor professional publishers, followed by payroll organizations and lastly third-party tax advisors.

Ernst & Young LLP Observation: The fact that smaller employers were less likely to rely on a third party news service or tax advisor to review governing rules is likely indicative of a tendency of smaller businesses to forego systematic oversight of their third-party payroll service providers.

For local payroll tax changes, 73 percent of respondents said they used a professional publisher to keep up with developments, 61 percent used a payroll organization, 35 percent used their third-party tax adviser and 6 percent did not use any of these methods.

Similar to tracking state changes, when tracking local payroll tax changes smaller employers are more likely to say they don't use any sources (9 percent for small businesses compared with 5 percent for larger business). Taking this into account, sources are used in line with the overall trend.

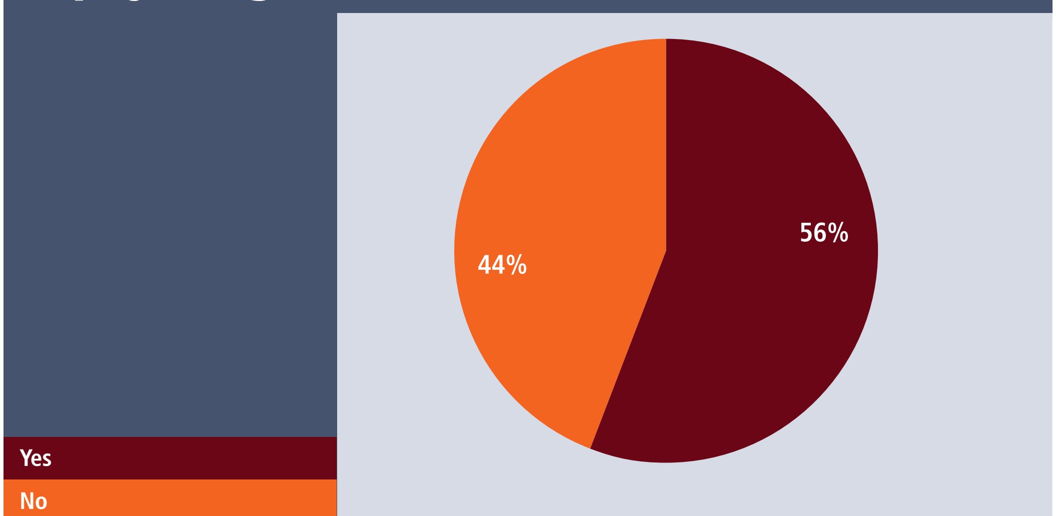
FOREIGN, NONRESIDENT WORKERS

As organizations increasingly seek mobile workers to support businesses in global markets, many are encountering a host of difficult tax compliance issues, survey results show.

Foreign nationals authorized to work in the United States are classified as either residents or nonresidents for U.S. taxation purposes. The distinction between these two classifications is important because resident aliens, like U.S. citizens, are taxed on their world-wide income, while nonresident aliens generally are taxed only on their U.S.-source income. However, special rules apply to the taxation of the income of nonresident aliens, depending on whether the income is from investments or from work-related activities.

Fifty-six percent of responding employers employed foreign, nonresident workers in the U.S.

Figure 11
Employ Foreign, Nonresident Workers in U.S.



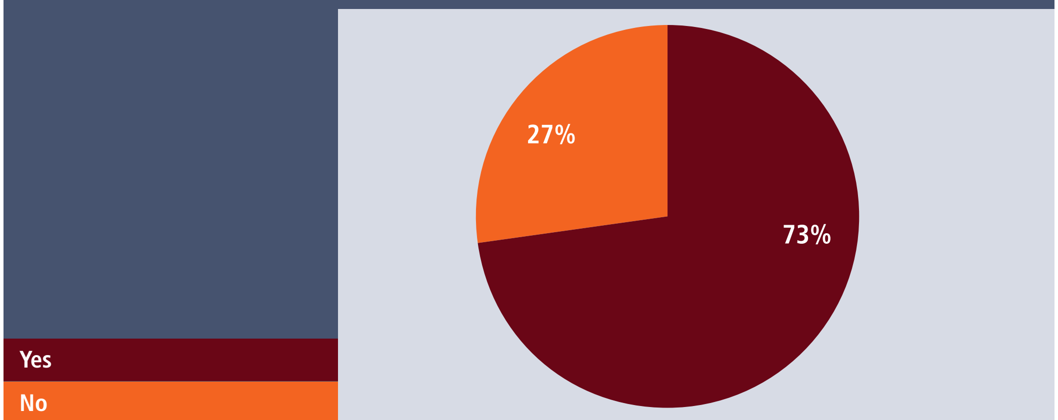
Source: Bloomberg BNA   Note: Nonresponse is less than 1%.   A BNA Graphic/bey15g11

By industry, 70 percent of responding manufacturing employers employed foreign nonresidents, while just over one-half of those in nonmanufacturing businesses and nonbusiness entities employed such workers. Larger companies were twice as likely as smaller companies to employ foreign nonresidents (65 percent and 32 percent, respectively). Please see Appendix Section C, Table C1 for full demographic breakdowns.

Of those that employed these workers, the majority (73 percent) had a formal policy in place to manage their employment. For employers that do not have a policy in place, 52 percent planned to implement such a policy. (See Figure 12 below.)

Figure 12

Formal Policy to Manage Foreign, Nonresident Employees in U.S.



Note: Percentages are based on the number of employers that employ foreign, nonresident workers in the U.S. Nonresponse is less than 1%.

Source: Bloomberg BNA A BNA Graphic/bey15g12

Smaller employers were less likely than larger employers to have a policy. By industry, 88 percent of nonbusiness employers said they had a policy in place; 74 percent of manufacturers responding had a policy and 69 percent of employers in the nonmanufacturer category have a formal policy.

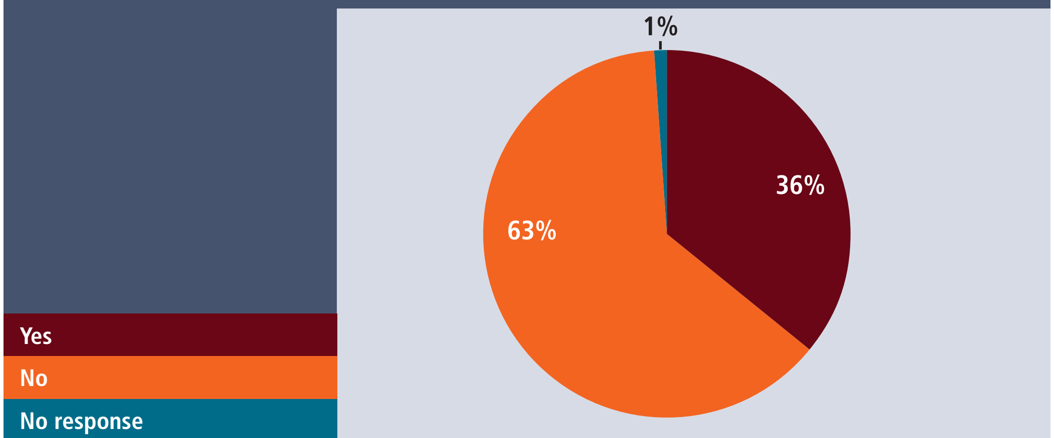
Of those responding organizations that said they employ foreign, nonresident workers in the U.S., 36 percent said they identified these employees as compliance risks. (See Figure 13 below.)

For employers that had identified these workers as risks, 65 percent assigned a high or medium level of risk for such employees, 10 percent identified the issue as high risk, 32 percent assigned a low level of risk. The remaining one-third assigned a low level of risk and 3 percent did not respond. For employers with foreign, nonresident employees that had not identified the nonresident workers as a risk, 50 percent had performed a formal assessment of the potential risk imposed before deciding they were not a risk.

About one-half of nonmanufacturing and nonbusiness employers with nonresidents that identified them as compliance risks said they performed a formal assessment of that potential risk. Just over one-third of manufacturers responding said they performed such an assessment. As expected, larger employers were more likely to say they have reviewed the potential risk than smaller employers. Please see the Appendix Section C, Table C6 for full demographic breakdowns.

Foreign nonresidents can be a source of risk because they can be highlighted in audits when income tax is collected and other taxes, like FICA, are not, as is

Figure 13
Identified Foreign, Nonresident Employees in U.S. as a Risk



Note: Percentages are based on the number of employers that employ foreign, nonresident workers in the U.S.
Source: Bloomberg BNA
A BNA Graphic/bey15g13

often is the case with these types of workers, McKenna said. If an employer has an adequate program in place for foreign nonresidents, then the category of medium risk is appropriate because these workers will be scrutinized in an audit, McKenna said. ''You know there is a risk of audit so you want to make sure you're [processing payroll] for these workers as well as you can,'' he said.

Forty-eight percent of responding employers with foreign nonresident workers used a third-party service provider to meet the employer tax obligations pursuant to such employees working in the U.S., 28 percent of responding employers had an in-house software-assisted system and nearly a quarter (23 percent) had an in-house manual system.

Around half of manufacturing and nonmanufacturing employers used third party services for meeting the employer tax obligations pursuant to foreign, nonresident employees working in the U.S. Nonbusiness respondents tended to rely on in-house software.

More employers with fewer than 1,000 workers (57 percent) responded they used a third party service provider for this aspect of compliance, with 26 percent of smaller employers saying they manually performed the function in-house and only 15 percent responded they relied on in-house software systems. Please see Appendix Section C, Table C2 for full demographic breakdowns.

More employers with fewer than 1,000 workers (57 percent) responded they used a third party service provider for this aspect of compliance, with 26 percent of smaller employers saying they manually performed the function in-house and only 15 percent responded they relied on in-house software systems. Larger employers fell more in line with the overall results (46 percent using third parties, 23 percent applying in house manual resources and 31 percent doing the compliance in house with assistance from software programs.

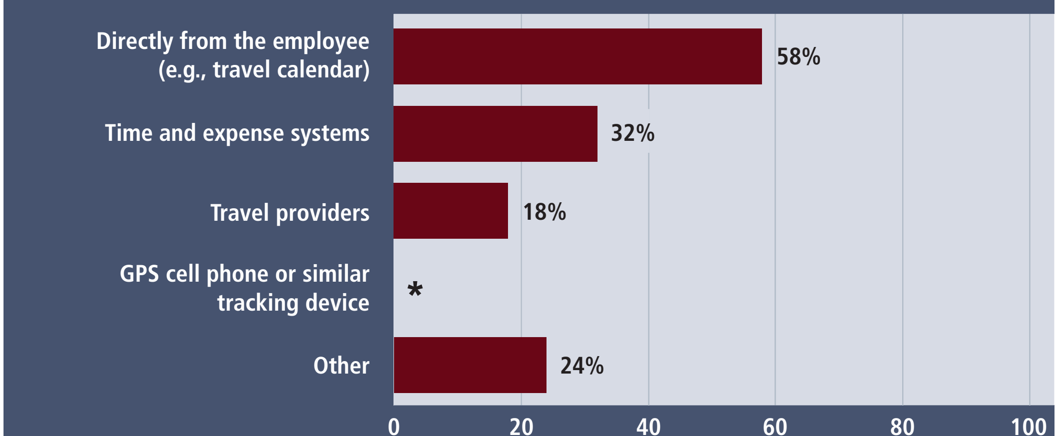
Tracking Mobility

For obtaining travel data to determine whether a foreign nonresident employee has triggered a U.S. tax obligation, 58 percent of those with foreign nonresident workers rely on data obtained directly from the employee, such as viewing employee travel calendars; 32 percent referred to time and expense systems; 18 percent consulted travel providers and less than one percent used a GPS cell phone or similar tracking device. Twenty-four percent of respondents reported using other means for obtaining this information.

Relying on data obtained directly from the employee was most popular with nonbusiness employers (69 percent) and manufacturers (65 percent). Larger employers were also in line with overall trends, with 59 percent saying they rely on data obtained directly from the employee. Smaller employees were slightly lower (50 percent). Please see Appendix Section C, Table C2 for full demographic breakdowns.

Figure 14

Methods of Obtaining Travel Data to Determine if a Foreign, Nonresident Employee has Triggered a U.S. Tax Obligation



Note: Percentages are based on the number of employers that employ foreign, nonresident workers in the U.S. Multiple responses were accepted.

Source: Bloomberg BNA *Less than 1%. A BNA Graphic/bey15g14

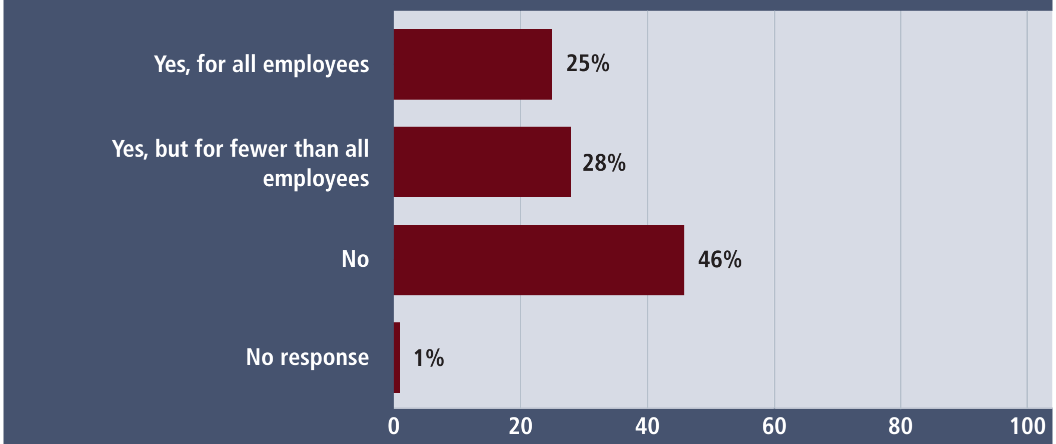
Business rules or thresholds for determining when to undertake compliance for foreign nonresident workers were in place for 62 percent of employers that employ such workers. Almost three fourths (71 percent) required foreign, nonresident employees to submit treaty exemption forms such as Form 8233, Exemption From Withholding on Compensation for Independent (and Certain Dependent) Personal Services of a Nonresident Alien Individual, before excluding wages from U.S. income tax and withholding under a treaty exemption.

Less than one-half of smaller employers that employ such workers said they require submission of treaty exemption documents before excluding wages from U.S. income tax. By contrast, three-quarters of larger employers responded they had such a requirement. Eighty-eight percent of nonbusiness employers required the documentation, a greater percentage than both manufacturers (70 percent) and nonmanufacturers (67 percent). Please see Appendix Section C, Table C3 for full demographic breakdowns.

Tax Assistance

Forty-six percent of employers with foreign, nonresident workers did not pay on behalf of the employees any of their nonresident income taxes. However, 25 percent responded that they grossed up for all foreign, nonresident employees, and 28 percent grossed up for only certain employees. One percent did not respond. Almost half (47 percent) of respondents with foreign, nonresident workers also did not assist them in the cost incurred for the preparation of any of their nonresident income tax returns; however, 27 percent provided assistance with the forms for all employees and 25 percent provided assistance for only certain employees. One percent did not respond.

Figure 15
Pay Any Nonresident Income Taxes for Foreign, Nonresident Employees (Gross Up)



Note: Percentages are based on the number of employers that employ foreign, nonresident workers in the U.S.

Source: Bloomberg BNA A BNA Graphic/bey15g15

Manufacturers with nonresident workers were most likely to gross-up and pay income taxes for all (36 percent) or some workers (41 percent). By contrast, about the same amount (three-quarters) of those in nonbusiness entities responded they did not pay for any taxes. Similarly, as for assistance in helping nonresidents file U.S. tax returns, manufacturers were most likely to assist all nonresidents (45 percent) or some nonresidents (38 percent) while 83 percent of nonbusiness respondents said they didn't provide any such assistance to nonresident employees.

APPENDIX: QUESTIONS AND RESPONSES

Appendix Section A: Demographics

Please note that as subsets of respondents become smaller, differences in percentages between groups may become exaggerated.

Table A1

Major industry sector	Manufacturing	19%
	Nonmanufacturing	63%
	Nonbusiness	17%
Number of employees working within the U.S. (both resident and nonresident):	Small (Fewer than 1,000)	28%
	Large (1,000 or more)	72%
Number of U.S. citizens and U.S. residents working outside the U.S.:	None	47%
	1 to 999	43%
	1,000 or more	10%
Number of states where employees temporarily or permanently work:	1 to 25	51%
	26 to 50	49%
Number of states where company is registered for income tax withholding:	1 to 25	50%
	26 to 50	50%

N=506

Table A2

				Industry			Size (Employees within U.S.)	
			All employers	Mfg.	Nonmfg.	Nonbus.	Large	Small
		Number of employers	**506**	**98**	**320**	**88**	**364**	**142**
Which of the following describes your use of E-Verify?		We use it for all employees	60%	64%	59%	60%	67%	43%
		We use it for employees in certain states	7%	11%	6%	5%	8%	4%
		We use it for certain groups of employees, regardless of their state location	4%	2%	5%	3%	4%	5%
		We do not use E-Verify	29%	22%	31%	32%	22%	49%
Does your payroll system adequately accommodate income tax withholding for multiple work states or localities in the same payroll period?	Multiple states	Yes	66%	65%	66%	69%	68%	62%
		No	22%	26%	22%	18%	22%	21%
		Don't know	12%	9%	12%	13%	10%	17%
	Multiple localities	Yes	56%	57%	57%	53%	57%	54%
		No	25%	29%	24%	23%	26%	21%
		Don't know	18%	13%	18%	22%	15%	24%
		No response	2%	1%	2%	2%	2%	1%

Appendix Section B: U.S. Multiple State and Local Employment

Please note that as subsets of respondents become smaller, differences in percentages between groups may become exaggerated.

Table B1

			Industry			Size (Employees within U.S.)	
		All employers	Mfg.	Nonmfg.	Nonbus.	Large	Small
	Number of employers	**506**	**98**	**320**	**88**	**364**	**142**
Do your employees work temporarily or permanently for you (including short-term business travel) outside of their resident state or local jurisdiction?	Yes	85%	91%	88%	67%	90%	70%
	No	15%	8%	12%	33%	9%	29%
	No Response	*	1%	*	0%	*	1%

*Less than 1%.

Table B2

				Industry			Size (Employees within U.S.)	
			All employers	Mfg.	Nonmfg.	Nonbus.	Large	Small
		Number of employers	**429**	**89**	**281**	**59**	**329**	**100**
Please indicate whether the payroll department is generally provided with timely notification about changes to the following:	U.S. domestic work locations	Yes	69%	65%	72%	59%	68%	73%
		No	31%	35%	28%	41%	32%	27%
		No response	0%	0%	0%	0%	0%	0%
	U.S. domestic residences	Yes	72%	70%	74%	63%	70%	78%
		No	28%	30%	25%	37%	30%	22%
		No response	*	0%	1%	0%	1%	0%
Do you provide courtesy withholding for employees' resident states or locals?	State	Yes, for all employees	40%	39%	41%	37%	37%	48%
		Yes, but for fewer than all employees	26%	22%	27%	27%	28%	20%
		No	34%	37%	32%	36%	34%	32%
		No response	*	1%	*	0%	1%	0%
	Local	Yes, for all employees	31%	29%	32%	32%	29%	38%
		Yes, but for fewer than all employees	25%	26%	26%	22%	27%	21%
		No	42%	45%	41%	46%	43%	40%
		No response	1%	0%	1%	0%	1%	1%

Note: Percentages are based on the number of employers that have employees that work temporarily or permanently (including short-term business travel) outside of their resident state or local jurisdiction.

*Less than 1%.

Table B3

				Industry			Size (Employees within U.S.)	
			All employers	Mfg.	Nonmfg.	Nonbus.	Large	Small
		Number of employers	**429**	**89**	**281**	**59**	**329**	**100**
Do you source compensation to the state earned when determining income tax withholding on equity compensation, bonuses and other trailing compensation?		Yes	66%	65%	65%	76%	69%	59%
		No	32%	35%	34%	20%	30%	39%
		No response	1%	0%	1%	3%	1%	2%
Approximately what proportion of your organization's corrected Forms W-2 concern multistate employment?		None	27%	29%	27%	25%	20%	51%
		1% to 9%	43%	42%	43%	44%	47%	30%
		10% to 29%	15%	11%	15%	19%	16%	13%
		30% to 49%	7%	7%	7%	8%	9%	2%
		50% or more	7%	11%	7%	2%	9%	2%
		No response	1%	0%	1%	2%	1%	2%
Have you been subject to a state or local nonresident income tax audit?	State	Yes, in the last year	21%	19%	23%	10%	25%	7%
		Yes, 2 to 3 years ago	10%	17%	8%	8%	11%	6%
		Yes, 4 to 5 years ago	3%	2%	3%	3%	3%	2%
		Yes, more than 5 years ago	6%	7%	6%	2%	5%	8%
		No	60%	55%	59%	75%	56%	76%
		No response	*	0%	*	2%	*	1%
	Local	Yes, in the last year	10%	9%	11%	7%	13%	2%
		Yes, 2 to 3 years ago	6%	7%	6%	5%	8%	1%
		Yes, 4 to 5 years ago	1%	2%	1%	0%	2%	0%
		Yes, more than 5 years ago	4%	2%	5%	3%	4%	6%
		No	76%	78%	74%	83%	72%	90%
		No response	2%	2%	1%	2%	2%	1%

Note: Percentages are based on the number of employers that have employees that work temporarily or permanently (including short-term business travel) outside of their resident state or local jurisdiction.

*Less than 1%.

Table B4

				Industry			Size (Employees within U.S.)	
			All employers	Mfg.	Nonmfg.	Nonbus.	Large	Small
		Number of employers	**429**	**89**	**281**	**59**	**329**	**100**
Do you use a third-party tax advisor to assist you with your U.S. multistate tax compliance?		Yes	42%	42%	44%	36%	43%	39%
		No	57%	57%	55%	63%	56%	60%
		No response	1%	1%	1%	2%	1%	1%
How do you keep track of state and local payroll tax changes? (Check all that apply.)	State	Professional publisher (e.g., payroll news service, research library, etc.)	77%	76%	76%	80%	79%	68%
		Payroll organization	65%	70%	63%	66%	67%	57%
		Third-party tax advisor	38%	38%	39%	29%	42%	24%
		None of the above	4%	2%	5%	3%	3%	8%
	Local	Professional publisher (e.g., payroll news service, research library, etc.)	73%	75%	73%	71%	76%	64%
		Payroll organization	61%	67%	60%	59%	64%	53%
		Third-party tax advisor	35%	38%	36%	27%	39%	22%
		None of the above	6%	3%	6%	10%	5%	9%
Does your company have a program for withholding nonresident state income taxes?		Yes	59%	52%	62%	56%	62%	51%
		No	40%	48%	37%	44%	38%	48%
		No response	1%	0%	1%	0%	1%	1%

Note: Percentages are based on the number of employers that have employees that work temporarily or permanently (including short-term business travel) outside of their resident state or local jurisdiction.

Table B5

			Industry			Size (Employees within U.S.)	
		All employers	Mfg.	Nonmfg.	Nonbus.	Large	Small
	Number of employers	**139**	**31**	**96**	**12**	**100**	**39**
What are the reasons that nonqualified deferred compensation and equity compensation are not sourced to the state(s) earned for income tax withholding? (Check all that apply.)	Lack of historical data concerning employees' work locations	44%	42%	43%	58%	47%	36%
	Policy to do so not yet approved by management	35%	39%	34%	25%	36%	31%
	Third-party provider cannot accommodate	24%	29%	20%	42%	26%	18%
	Was not aware of the issue	22%	19%	24%	8%	20%	26%

Note: Percentages are based on the number of employers that do **not** source compensation to the state earned when determining income tax withholding on equity compensation, bonuses and other trailing compensation.

Table B6

		All employers	Industry: Mfg.	Industry: Nonmfg.	Industry: Nonbus.	Size (Employees within U.S.): Large	Size (Employees within U.S.): Small
	Number of employers	**254**	**46**	**175**	**33**	**203**	**51**
Which of the following employee groups are included in your program for withholding nonresident state income taxes?	All employees/all travel	54%	46%	55%	61%	54%	53%
	Executives/highly paid only	10%	9%	11%	3%	10%	8%
	Employees who frequently travel only (e.g., sales, buyers, etc.)	16%	30%	12%	15%	16%	14%
	Select states only	20%	15%	21%	18%	19%	24%
	No response	1%	0%	1%	3%	*	2%
Please indicate how your organization tracks employee movement across jurisdictional boundaries. (Check all that apply.)	Employee timesheets	39%	28%	43%	36%	37%	49%
	Ad hoc employee reporting (estimates or actual)	32%	41%	30%	30%	34%	25%
	Expense reporting system	32%	39%	31%	27%	33%	27%
	Third-party technology (e.g., GPS)	6%	2%	7%	6%	6%	4%
	None of the above	22%	17%	22%	30%	21%	27%
Do you pay U.S. domestic employees' state nonresident income tax for short-term assignments (gross up)?	Yes, for all employees	15%	17%	16%	9%	17%	8%
	Yes, but for fewer than all employees	17%	22%	15%	15%	16%	20%
	No	68%	61%	69%	76%	67%	73%
	No response	0%	0%	0%	0%	0%	0%
Do you assist U.S. domestic employees in the cost incurred for the preparation of state nonresident income tax returns for short-term assignments?	Yes, for all employees	15%	20%	12%	21%	15%	12%
	Yes, but for fewer than all employees	13%	13%	14%	6%	12%	16%
	No	73%	67%	74%	73%	73%	73%
	No response	0%	0%	0%	0%	0%	0%

Note: Percentages are based on the number of employers that have a program for withholding nonresident state income taxes.

*Less than 1%.

Table B7

				Industry			Size (Employees within U.S.)	
			All employers	Mfg.	Nonmfg.	Nonbus.	Large	Small
		Number of employers	**254**	**46**	**175**	**33**	**203**	**51**
What is your de minimis threshold at which you disregard a state nonresident income tax withholding requirement?		We follow all state guidelines concerning de minimis exception	48%	39%	48%	58%	47%	51%
		0 to 5 days	9%	0%	12%	9%	9%	12%
		6 to 10 days	6%	4%	6%	6%	5%	10%
		11 to 14 days	13%	20%	11%	15%	15%	8%
		15 to 20 days	7%	9%	7%	3%	8%	4%
		More than 20 days	15%	28%	12%	9%	15%	14%
		No response	2%	0%	3%	0%	2%	2%
At what frequency do you withhold and deposit nonresident state income tax?	Withhold	Every pay period	85%	85%	85%	91%	86%	84%
		Monthly (regardless of payroll period)	6%	7%	6%	6%	6%	6%
		Quarterly	6%	7%	7%	3%	6%	8%
		Annually	1%	2%	1%	0%	1%	2%
		No response	1%	0%	1%	0%	1%	0%
	Deposit	Every pay period	71%	72%	70%	76%	77%	49%
		Monthly (regardless of payroll period)	14%	11%	14%	15%	12%	20%
		Quarterly	13%	15%	13%	6%	9%	27%
		Annually	1%	2%	1%	0%	*	2%
		No response	2%	0%	2%	3%	1%	2%

Note: Percentages are based on the number of employers that have a program for withholding nonresident state income taxes.

*Less than 1%.

Appendix Section C: U.S. Nonresident Alien Employment

Please note that as subsets of respondents become smaller, differences in percentages between groups may become exaggerated.

Table C1

			Industry			Size (Employees within U.S.)	
		All employers	Mfg.	Nonmfg.	Nonbus.	Large	Small
	Number of employers	**506**	**98**	**320**	**88**	**364**	**142**
Do you employ foreign, non-resident workers in the U.S.?	Yes	56%	70%	52%	55%	65%	32%
	No	44%	30%	48%	45%	35%	68%
	No response	*	0%	*	0%	*	0%

*Less than 1%.

Table C2

			Industry			Size (Employees within U.S.)	
		All employers	Mfg.	Nonmfg.	Nonbus.	Large	Small
	Number of employers	**283**	**69**	**166**	**48**	**237**	**46**
Do you have a formal policy in place to manage foreign, non-resident employees working in the U.S.?	Yes	73%	74%	69%	88%	77%	54%
	No	27%	25%	31%	13%	23%	46%
	No response	*	1%	0%	0%	*	0%
Have foreign, non-resident employees working in the U.S. been identified as a risk by your organization?	Yes	36%	39%	34%	38%	39%	20%
	No	63%	61%	65%	60%	60%	80%
	No response	1%	0%	1%	2%	1%	0%
What system are you using to meet the employer tax obligations pursuant to foreign, non-resident employees working in the U.S.?	Third-party service provider	48%	55%	49%	33%	46%	57%
	In-house manual	23%	23%	22%	27%	23%	26%
	In-house software assisted	28%	22%	28%	40%	31%	15%
	No response	*	0%	1%	0%	0%	2%
How do you obtain travel data to determine if a foreign, non-resident employee has triggered a U.S. tax obligation? (Check all that apply.)	Directly from the employee (e.g., travel calendar)	58%	65%	51%	69%	59%	50%
	Time and expense systems	32%	23%	39%	21%	32%	28%
	Travel providers	18%	19%	19%	15%	19%	11%
	GPS cell phone or similar tracking device	*	0%	1%	0%	0%	2%
	Other	24%	22%	23%	29%	22%	30%

Note: Percentages are based on the number of employers that employ foreign, non-resident workers in the U.S.

*Less than 1%.

Table C3

			Industry			Size (Employees within U.S.)	
		All employers	Mfg.	Nonmfg.	Nonbus.	Large	Small
	Number of employers	**283**	**69**	**166**	**48**	**237**	**46**
Have you set business rules or thresholds to determine when you will undertake compliance for foreign, non-resident employees in the U.S.?	Yes	62%	59%	64%	58%	65%	48%
	No	36%	41%	33%	40%	33%	50%
	No response	2%	0%	2%	2%	2%	2%
Do you require foreign, non-resident employees to submit treaty exemption forms (e.g., Form 8233) before excluding wages from U.S. income tax and withholding under a treaty exemption?	Yes	71%	70%	67%	88%	76%	46%
	No	27%	29%	31%	13%	22%	52%
	No response	2%	1%	2%	0%	2%	2%
Do you pay on behalf of your foreign, non-resident employees' any of their nonresident income taxes (i.e. gross up)?	Yes, for all employees	25%	36%	25%	8%	25%	24%
	Yes, but for fewer than all employees	28%	41%	26%	19%	29%	26%
	No	46%	22%	48%	73%	46%	48%
	No response	1%	1%	1%	0%	1%	2%
Do you assist foreign, non-resident employees in the cost incurred for the preparation of any of their nonresident income tax returns?	Yes, for all employees	27%	45%	25%	8%	27%	24%
	Yes, but for fewer than all employees	25%	38%	25%	8%	26%	22%
	No	47%	16%	49%	83%	46%	52%
	No response	1%	1%	1%	0%	1%	2%

Note: Percentages are based on the number of employers that employ foreign, non-resident workers in the U.S.

Table C4

			Industry			Size (Employees within U.S.)	
		All employers	Mfg.	Nonmfg.	Nonbus.	Large	Small
	Number of employers	**75**	**17**	**52**	**6**	**54**	**21**
Do you plan to implement a formal policy to manage foreign, non-resident employees working in the U.S.?	Yes	52%	59%	52%	33%	54%	48%
	No	48%	41%	48%	67%	46%	52%

Note: Percentages are based on the number of employers that do **not** have a formal policy in place to manage foreign, non-resident employees working in the U.S.

Table C5

			Industry			Size (Employees within U.S.)	
		All employers	Mfg.	Nonmfg.	Nonbus.	Large	Small
	Number of employers	**102**	**27**	**57**	**18**	**93**	**9**
What level of risk does your organization assign to foreign, non-resident employees working in the U.S.?	High risk	10%	11%	11%	6%	10%	11%
	Medium risk	55%	70%	53%	39%	56%	44%
	Low risk	32%	19%	33%	50%	31%	44%
	No response	3%	0%	4%	6%	3%	0%

Note: Percentages are based on the number of employers that have identified foreign, non-resident employees working in the U.S. as a risk.

Table C6

			Industry			Size (Employees within U.S.)	
		All employers	Mfg.	Nonmfg.	Nonbus.	Large	Small
	Number of employers	**179**	**42**	**108**	**29**	**142**	**37**
Did your organization perform a formal assessment of the potential risk posed by foreign, non-resident employees working in the U.S. before deciding that they were not a risk?	Yes	50%	38%	55%	52%	53%	41%
	No	48%	60%	44%	48%	46%	57%
	No response	2%	2%	2%	0%	1%	3%

Note: Percentages are based on the number of employers that have **not** identified foreign, non-resident employees working in the U.S. as a risk.