Effective 1/1/2023

59-10-117.5 Nonresident individual wage exemption.

(1) As used in this section:

(a) "Day" means any period of time during a calendar day that an individual is present in the state, unless the presence is solely for transportation through the state.

(b) "Wages" means income that:

(i) is received by an individual for employment duties performed inside this state; and

(ii) would be subject to withholding in accordance with Section 59-10-402 without regard to Subsection 59-10-402(5)(a).

(2) A nonresident individual's wages may not be considered income derived from Utah sources if:

(a) the nonresident individual has no other income from sources within this state for the taxable year in which the nonresident individual receives the wages;

(b) the nonresident individual is present in this state to perform employment duties for 20 or fewer days during the tax year; and

(c) the nonresident individual's state of residence:

(i) provides a substantially similar exclusion; or

(ii) does not impose a state individual income tax.

(3) This section does not apply to wages received by:

(a) an individual who is a professional athlete or a member of a professional athletic team;

(b) an individual who is a professional entertainer and who performs services in the professional performing arts;

(c) an individual of prominence who performs services for wages on a per-event basis;

(d) an individual who performs construction services to improve real property, predominantly on a construction site, as a laborer;

(e) an individual who is a key employee, without regard to ownership or the existence of a benefit plan, for the year immediately preceding the current tax year pursuant to Subsection 416(i), Internal Revenue Code; or

(f) an individual who is an employee of a non-corporate employer, and who would be a key employee without regard to ownership or the existence of a benefit plan, for the year immediately preceding the current tax year pursuant to Subsection 416(i), Internal Revenue Code, if:

(i) the term "employee" were substituted for the term "officer"; and

(ii) the individual is one of the non-corporate employer's 50 highest paid employees without regard to whether the individual is an officer.

Enacted by Chapter 252, 2022 General Session