



STATE OF NORTH DAKOTA
OFFICE OF STATE TAX COMMISSIONER
RYAN RAUSCHENBERGER, COMMISSIONER

Testimony—Interim Political Subdivision Taxation Committee

December 1, 2015

Prepared by Joseph Becker, Auditor III
Research and Education Section

Phone: 328-3451
E-mail: jjbecker@nd.gov

Chairman Dockter and Members of the Committee:

Introduction

My name is Joseph Becker, and I am here on behalf of the North Dakota Office of State Tax Commissioner (Tax Department). I was asked to comment on the history and fiscal impact of the income tax reciprocity agreement between the States of North Dakota and Montana.

Background

The income tax reciprocity agreement between North Dakota and Montana provides that each state will not tax the wages of the other state's residents for work performed within its borders. Each state has a special form that an eligible individual may complete and give to his or her employer to exempt the individual's wages from the nonresident state's income tax withholding. (Form NDW-R for a Montana resident working in North Dakota, and Form MT-R for a North Dakota resident working in Montana.) In the event that the withholding exemption form is not provided to the employer at time of initial employment (or not at all), the individual will need to file an income tax return with the nonresident state to obtain a refund of that state's income tax withholding.

History

The income tax reciprocity agreement between North Dakota and Montana was entered into in 1975. The exemption from income tax took effect for tax years beginning on or after

January 1, 1975, and the exemption from income tax withholding took effect for wages paid on or after October 1, 1975. The agreement's terms provide for the review and renewal of the agreement every two years. Since its inception the agreement has operated smoothly for all concerned, with few, if any, issues or concerns.

Fiscal impact

In my time with the Tax Department, which began a little over six years after the reciprocity agreement with Montana took effect, I am not aware that the Department has ever studied or calculated the fiscal effect of the agreement on North Dakota's revenue. The necessary data is not readily available and would require time and resources to gather, and would require Montana's cooperation in extracting data from its records on North Dakota residents working in Montana. So the Department is unable to provide any definitive numbers on the historical or current fiscal effect of the agreement.

However, there is some data available to the Tax Department that provides some indication of the fiscal picture. For the 2013 tax year, the following data is available:

- Based on data collected by the Tax Department, approximately 4,932 Montana residents worked in North Dakota. Of this number:
 - 3,061 filed a North Dakota income tax return to claim a refund of the North Dakota income tax withheld from their wages. The total amount refunded was \$1,972,966.
 - 1,871 filed Form NDW-R with their employers to exempt their wages from North Dakota income tax (and therefore did not have to file a North Dakota income tax return).
- Based on data obtained from the Montana Department of Revenue, approximately 289 North Dakota residents worked in Montana. Of this number:
 - 132 filed a Montana income tax return to claim a refund of the Montana income tax withheld from their wages. The total amount refunded was not provided; however, the total amount of the wages earned in Montana that were claimed as exempt under reciprocity was \$2,293,863.

- 157 filed Form MT-R with their employers to exempt their wages from Montana income tax (and therefore did not have to file a Montana income tax return).

Given the above data, the following general statements can be made regarding the fiscal impact of the North Dakota-Montana income tax reciprocity agreement:

- For North Dakota, there is negative fiscal impact on revenue. This is because the amount of wages of Montana residents that is exempt from North Dakota income tax is greater than the amount of wages of North Dakota residents that is exempt from Montana income tax.
- For Montana, there is a positive fiscal impact on revenues. This is because Montana receives the full amount of tax on its residents working in North Dakota instead of having to give up the revenue through a credit for taxes paid to North Dakota.
- With or without reciprocity, a Montana resident will pay the same amount of state income overall because the income tax rates in Montana are higher than those in North Dakota. Reciprocity only provides the benefit of not having to file a North Dakota income tax return (assuming the Montana resident files a withholding exemption form with his or her employer).
- A North Dakota resident, on the other hand, will pay a higher amount of state income tax overall without the reciprocity agreement because of the higher income tax rates in Montana. With reciprocity, a North Dakota resident not only pays income tax at the lower North Dakota income tax rates but also benefits by not having to file a Montana income tax return (assuming the North Dakota resident files a withholding exemption form with his or her employer).

Conclusion

That concludes my testimony, Mr. Chairman. If there are any questions from the Committee, I would be glad to address them.