

**Illinois Department of Revenue
Regulations**

Title 86 Part 100 Section 2590 TAXATION OF CERTAIN EMPLOYEES OF RAILROADS, MOTOR CARRIERS, AIR CARRIERS AND WATER CARRIERS

**TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE**

**PART 100
INCOME TAX**

Section 100.2590 Taxation of Certain Employees of Railroads, Motor Carriers, Air Carriers and Water Carriers

- a) Federal law affects the authority of the State of Illinois to subject certain employees of railroads, motor carriers, merchant mariners, and air carriers to Illinois income taxation. By virtue of the provisions of federal laws cited in this Section, compensation that would otherwise be subject to Illinois income taxation and withholding by virtue of IITA Sections 302(a) and 304(a)(2)(B) is subtracted from adjusted gross income in determining Illinois base income (and is not subject to Illinois income tax withholding) pursuant to IITA Section 203(a)(2)(N), which provides a subtraction from adjusted gross income for *an amount equal to all amounts included in adjusted gross income that are exempt from taxation by this State by reason of the statutes of the United States.*
- 1) Railroad Employees. 49 USC 11502(a) states that no part of the compensation paid by a rail carrier subject to the jurisdiction of the Surface Transportation Board to an employee who performs regularly assigned duties as an employee on a railroad in more than one state shall be subject to the income tax laws of any state or subdivision of that state, other than the state or subdivision thereof of the employee's residence.
 - 2) Motor Carrier Employees. 49 USC 14503(a)(1) states that no part of the compensation paid by a motor carrier providing transportation subject to the jurisdiction of the Surface Transportation Board or by a motor private carrier to an employee who performs regularly assigned duties in 2 or more states as an employee with respect to a motor vehicle shall be subject to the income tax laws of any state or subdivision of that state, other than the state or subdivision thereof of the employee's residence.
 - 3) Merchant Mariner Employees. 46 USC 11108 states that no part of the compensation paid by a merchant mariner to an employee who performs regularly assigned duties in more than one state shall be subject to the income tax laws of any state or subdivision of that state, other than the state or subdivision of the employee's residence.
 - 4) Air Carrier Employees. 49 USC 40116(f)(2) states that no part of the compensation paid by an air carrier to an employee who performs regularly assigned duties as an employee on an aircraft in more than one state, shall be subject to the income tax laws of any state or its subdivision other than the state or subdivision of the employee's residence and the state or subdivision in which

the employee's scheduled flight time would have been more than 50% of the employee's total scheduled flight time for the calendar year.

b) Examples

- 1) EXAMPLE 1: A is a locomotive engineer employed by Interstate Railway. Interstate operates a rail yard in Illinois. Interstate also operates in Missouri, where it has a rail yard, as well as its administrative and payroll offices. A is a resident of Missouri. A is assigned to, and primarily reports to, the Illinois rail yard of Interstate and drives locomotives for Interstate on trips that go throughout the United States. However, on occasion, A is required to report to the Missouri rail yard of Interstate and drive locomotives on trips that originate in Missouri. Pursuant to 49 USC 11502(a), Interstate may only withhold the Missouri personal income tax on A's wages, and A is not subject to Illinois income tax on the wages paid by Interstate.
- 2) EXAMPLE 2: A is an airline pilot for World-Wide Airlines. World-Wide provides passenger and freight service to various destinations throughout the United States from an airport in Missouri, as well as from an airport in Illinois. A lives in Missouri, but A reports to and flies out of the World-Wide airport in Illinois. A primarily flies to destinations outside of Illinois. Less than 50% of A's compensation (as determined by flight time in Illinois versus flight time everywhere) is earned within Illinois. Therefore, A is only subject to Missouri income taxation on his or her compensation from World-Wide.
- 3) EXAMPLE 3: The facts are the same as in Example 2, except that A pilots commuter planes between airports in Illinois. In this situation, A will be subject to Illinois income taxation by virtue of the fact that A earns more than 50% of his or her compensation within the State of Illinois.

(Source: Amended at 44 Ill. Reg. 10907, effective June 10, 2020)