

Hiring Out-of-State Employees



WILLIAM & MARY

CHARTERED 1693

Agenda

- Policy
- Process
- Examples
- Questions

Policy

- ❖ Out of State Employees Hiring Policy - effective 01/03/2017
- ❖ Departments deciding to hire/reassign employees to work, or telecommute out-of-state must seek **PRIOR** approval by following procedures outlined in policy
- ❖ No employee can be hired, begin employment, or telecommute outside of Virginia until this approval is received

NOTE: A COPY OF THE POLICY CAN BE FOUND AT:

[Out-of-State Employees Hiring | Policy Library | Compliance & Equity | William & Mary \(wm.edu\)](#)

Important Policy Requirements

- ❖ **Employees Working Outside of Virginia but within the US:** The Hiring Department should notify the university via email as soon as practical but no later than 60 days prior to the employee's intended job start date to ensure that payroll and benefits are established correctly for these employees.
 - ❖ **Current Employees Who Will Reside and Work Outside of the US in Another Country:** The Hiring Department must provide notification to the university at least 120 calendar days prior to the start date of employment.
- These deadlines are firm and necessary to insure that the university is compliant with the related laws and regulatory requirements of the other state or country.**
- Failure to notify the university within these timelines may result in financial or legal penalties to the university AND additional administrative fees may be charged to the Hiring Department.**

Responsibilities

As an agency, we are legally liable to identify, withhold, remit, and report taxes for employees who reside and/or work outside of the Commonwealth of Virginia.

The **Hiring Department**, **Human Resources** and **Financial Operations** teams all have specific responsibilities when it comes to the employment and compensation of these out-of-state employees.

Process Overview

HIRING DEPARTMENT (HD)

- 1 Submits an *Out-of-State Employee Approval Form* using a Tribe Response form at: <https://wmdocusign.wm.edu/url/go/outofstatehiring>
- 2 Identifies business need to hire an out-of-state employee
- 3 Once approval is received, begin the hiring process
- 4 Submits a *Remote Work Agreement* to Human Resources for approval by following the instructions at: <https://wmdocusign.wm.edu/url/go/remotework>

Process Overview (continued)

HUMAN RESOURCES (HR)

- 1 Completes FINAL review of the *Out-of-State Employee Approval Form*
 - 2 Sends an approval or denial notification to Hiring Department
 - 3 Reviews and approves the *Remote Work Agreement*
 - 4 Updates employee HR address record in Banner to reflect out-of-state status
-

Process Overview (continued)

TAX COMPLIANCE (TC)

- 1 Analyzes the employee's situation to determine if (s)he meet the definition of a "remote employee" using new state's regulations
- 2 Reviews new state's registration requirements to determine if there are any concerns with the College registering
- 3 Provides Human Resources with results from above
- 4 Analyzes new state's compensation and benefits regulations for taxability and provides taxable/non-taxable income and deduction codes along with state tax tables to Financial Systems
- 5 Provides all related employment tax forms to Payroll
- 6 Registers the College in the new state and establishes all necessary tax accounts

Process Overview (continued)

FINANCIAL SYSTEMS (FS)

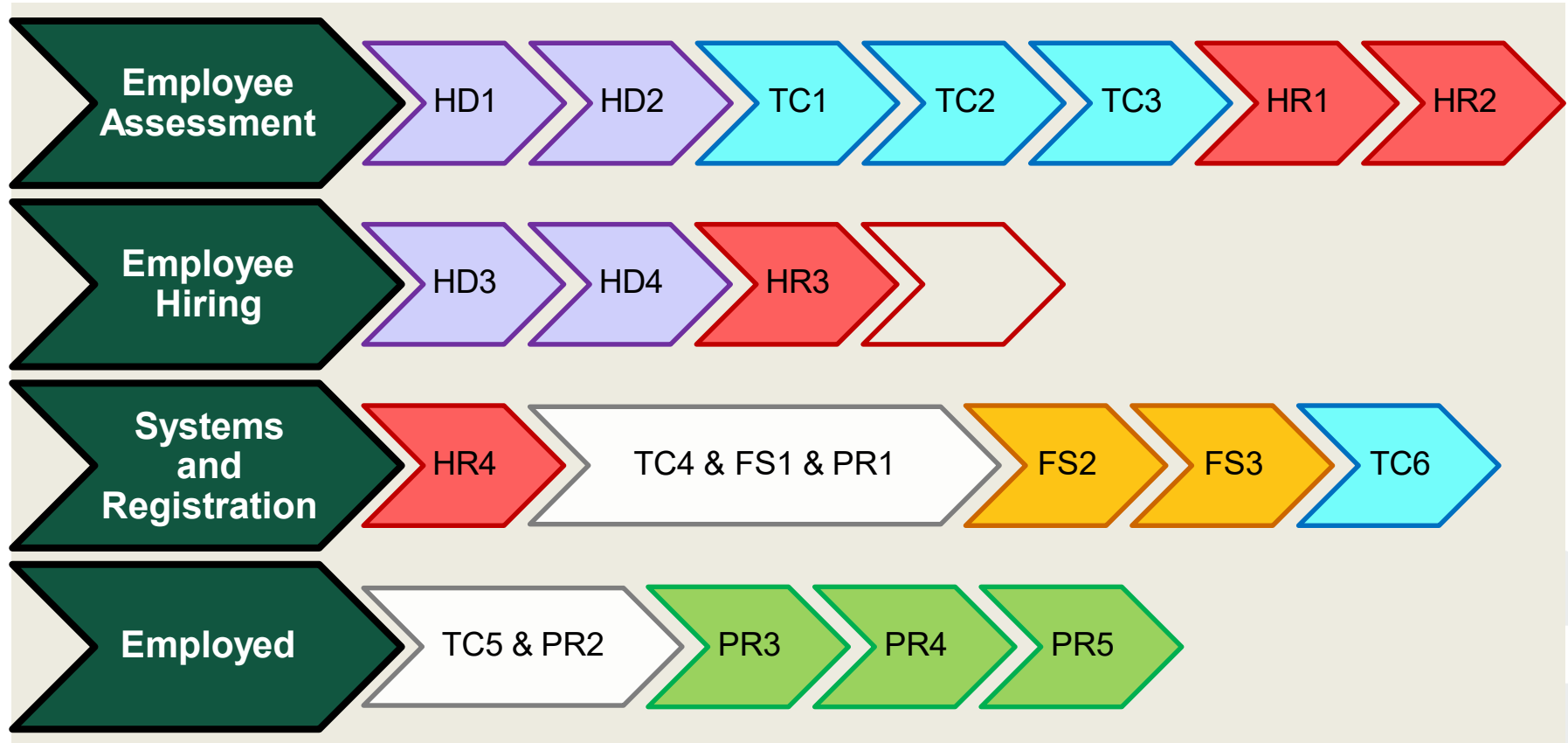
- 1 Works with Tax Compliance to ensure benefits/deductions and earnings tax exclusions and inclusions are properly identified
- 2 Creates tax tables in Banner for the new state
- 3 Creates deduction codes in Banner for the new state

Process Overview (continued)

PAYROLL DEPARTMENT (PD)

- 1 Works closely with Financial Systems to create new deductions codes, update tax tables, and other systems requirements for the new state
- 2 Works closely with Tax Compliance to ensure the proper forms are provided to employees, required tax accounts are established, and all necessary reports/returns are filed
- 3 Communicates directly with the prospective out-of-state employee to secure all required tax forms
- 4 Creates withholding allowances in Banner based on the completed forms above
- 5 Withholds, reports and remits tax withholdings and files all other reports with the new state, as required

Out-of-State Employee Timeline



The above timeline puts the departmental duties noted on the previous 5 slides into the process sequence for evaluating and/or establishing an employee out-of-state.

EXAMPLE: HD1 corresponds to Slide 6: “1- Identifies business need to hire an out-of-state employee”

Challenges to the Process

- ❖ State registrations can be complex and lengthy, which could result in significant delays before an employee may begin working
- ❖ Compliance can be jeopardized by employees who are transitioned into a telecommuting position without the required approvals and/or notification to **ALL** of the Out-of-State Employee Teams
- ❖ Administrative costs to hire an employee in a new state or country can be cost prohibitive, as it may necessitate outside consultants to ensure compliance
- ❖ Failure by the employee to submit proper withholding forms may result in dual tax withholdings
- ❖ Failure by the Hiring Department to notify the university of an employee's employment situation could significantly impact the employee's tax filings

Reciprocity Agreement

A reciprocal agreement also called reciprocity, is an **agreement** between two states that allows residents of one state to request exemption from tax withholding in the other (**reciprocal**) state.

- **VIRGINIA:**

- If you are a resident of Kentucky or the District of Columbia and **commute** on a daily basis to work in Virginia, then you're "EXEMPT" (not subject to) Virginia income tax withholding. You must file an *Employee's Virginia Income Tax Withholding Exemption Certificate* (Form VA-4) with your employer each calendar year you claim an exemption.
- If you are a resident of Maryland, Pennsylvania or West Virginia whose **ONLY** Virginia source income is from salaries and wages and such wages are subject to income taxation by your resident state, then you're "EXEMPT" (not subject to) Virginia income tax withholding. You must file an *Employee's Virginia Income Tax Withholding Exemption Certificate* (Form VA-4) with your employer each calendar year you claim an exemption.
- **ONLY** the above noted states have reciprocal agreements with Virginia. Residents of all other states are subject to Virginia income tax withholdings for all salaries and wages earned in Virginia.

Reciprocity Agreement (continued)

A reciprocal agreement also called reciprocity, is an **agreement** between two states that allows residents of one state to request exemption from tax withholding in the other (**reciprocal**) state.

- **DISTRICT OF COLUMBIA:**

- If you are **NOT** a resident of the District of Columbia, you must file a *Certificate of Non-residence in DC* (Form D-4A) with your employer to establish that you are not subject to the District of Columbia income tax withholding. You qualify as a nonresident if your permanent residence is outside DC during all of the tax year **AND** you do not reside in the District of Columbia for 183 days or more in the tax year or you are a service member's spouse.

The College is Currently Registered in the Following States:

William & Mary (25)

Alabama
California
Colorado
District of Columbia
Florida
Georgia
Illinois
Louisiana

Maine
Maryland
Minnesota
Nebraska
New Hampshire
New York
North Carolina
Ohio

Oregon
Pennsylvania
South Carolina
Tennessee
Texas
Utah
Virginia
Vermont
West Virginia

Virginia Institute of Marine Science (1)

Virginia

NOTE: Indiana has been evaluated as a state with registration difficulties for the College

Examples

CURRENT SCENARIOS	RESIDENT STATE	WORK STATE	WITHHOLDING STATE
Employee is a resident of MD who lives in MD and commutes to work at the MAIN campus or VIMS campus	MD	VA	MD or VA
Employee is a resident of VA who lives in DC for 200 days and works at DC location/office	VA	DC	DC
Employee is a resident of VA who lives in VA and commutes to work at the DC location/office	VA	DC	VA
Employee is a resident of SC who commutes to work at the MAIN campus or VIMS campus	SC	VA	VA
Data Analyst lives in NE and performs all job duties from home	NE	NE	NE

Questions

Send Questions to tax@wm.edu