

## State Telecommuting Charts Related to Covid-19

**Chart 1 - State Guidance for Employee Sourcing Related to Telecommuting (Covid-19) as of July 23, 2020**

State/City	Individual Taxpayer Sourcing
Georgia	<p>GA has issued guidance with respect to employer withholding obligations. Within that guidance, GA imposes a convenience rule for withholding purposes and an exception to withholding on nonresidents suddenly working in GA. While it seems like this was meant to apply only to withholding, the broad language could cause confusion as to whether it would also apply to individual taxpayers' reporting requirements. Applying such rules to an individual taxpayer would be contrary to GA's normal rules. See next chart for more detail.</p>
Iowa	<p>Iowa individual income tax requirements have not been modified by the COVID-19 pandemic.</p> <p>Iowa individual residents are subject to tax on their entire income, wherever earned, so an Iowa resident's income tax return filing requirements should not be affected by temporary telecommuting in Iowa or another state.</p> <p>Nonresidents of Iowa who normally work in Iowa but are temporarily telecommuting in another state, or who normally work outside of Iowa but are temporarily telecommuting in Iowa, may need to adjust their income apportionment or their Iowa income tax return filing requirement.</p> <p>The reciprocal agreement between Iowa and Illinois remains unchanged.</p>
Massachusetts	<p>While MA does not have a convenience of the employer rule, MA appears to have implemented one in response to telecommuting employees due to Covid-19.</p> <p>MA guidance provides that "all compensation received for personal service performed by a nonresident who, immediately prior to the MA Covid-19 state of emergency, was an employee engaged in performing services in MA, and who during such emergency is performing such services from a location outside MA due solely to the MA Covid-19 state of emergency, will</p>

Massachusetts cont'd	<p>continue to be treated as MA source income subject to personal income tax and withholding.”</p> <p>If a MA resident suddenly working in MA due to the pandemic continues to incur an income tax liability in another state due to that state’s sourcing rule will be eligible for a credit for tax paid to that state.</p> <p>This rule is effective through the earlier of December 31, 2020, or 90 days after the date on which the Governor of the Commonwealth gives notice that the state of emergency declared in Executive Order 591 is no longer in effect.</p>
Michigan City Income Taxes	<p>In <i>City Income Taxes and Telecommuting FAQ</i>, the Michigan Department of Treasury advises that telecommuters, physically outside of a city, are not subject to city income taxes. The City Income Tax Act (CITA) has no provision allowing a city to tax wages earned outside of the city.</p> <p>Employees are advised to keep a log of the number of days they worked outside of the city. Additionally, employers are encouraged to provide employees with letters indicating the dates the employee was instructed to work from home. Such documentation should be retained and provided to the city tax administrator if proof of non-taxation is required.</p>
Minnesota	<p>MN has issued Covid-19 FAQ’s for individuals on its website.</p> <p>Nonresidents that are temporarily telecommuting from within MN (for example, from a second home in MN) will need to apportion their income based on the number of days worked from that MN location. Nonresidents need to divide the number of days worked in Minnesota by the total number of days worked.</p> <p>For Minnesota residents, there are no additional payment or withholding requirements. They are already taxed on income earned inside and outside the state.</p>
New Jersey	<p>NJ’s guidance is unclear and it is difficult how to reconcile the inconsistent statements contained in their FAQs:</p> <p>First, the guidance provides that employees may use a different allocation than the employer used for withholding, but the Division may request supporting documentation for the allocation and will not waive interest, but may grant penalty relief on a case by case basis if circumstances warrant.</p> <p>NJ then goes on to include the same statement they do for employer withholding, which says that NJ sourcing rules dictate</p>

New Jersey cont'd	<p>that income is sourced based on where the service or employment is performed based on a day's method of allocation. However, during the temporary period of COVID-19 pandemic, wage income will continue to be sourced as determined by the employer in accordance with the employer's jurisdiction. (This does not make a lot of sense since employee sourcing has nothing to do with the employer's jurisdiction).</p> <p>The Reciprocal Personal Income Tax Agreement between New Jersey and Pennsylvania eliminates wage sourcing issues for these employees as there is agreement to not tax the wages of a resident of the other state.</p>
Pennsylvania	PA's guidance was aimed at the withholding obligations of employers (see below); it appears that PA will continue to impose its convenience rule on employees.
Philadelphia	<p>The City of Philadelphia Department of Revenue issued guidance stating that non-resident employees are not subject to Philadelphia city wage tax during the time they have been ordered to work outside of Philadelphia. Due to the current mandatory work from home policy, Philadelphia city wage tax will be suspended for non-resident Philadelphia employees effective with the pay period beginning 4/6/2020 (pay date 4/17/2020). Any applicable state or resident tax will be taken in lieu of the Philadelphia city wage tax.</p> <p>In early 2021, after 2020 W-2's have been issued, employees can file a Philadelphia City Wage Refund Petition to claim a credit for days worked outside of Philadelphia prior to 4/6/2020. Information explaining the petition process will be shared with employees working in the Philadelphia location prior to year-end 2020.</p>
Vermont	Vermont guidance reminds non-residents who are temporarily living and working in Vermont of their obligation to pay Vermont income taxes on the income earned while living and performing work in Vermont. This is true even if the nonresident is in Vermont due to the COVID-19 pandemic, and regardless of whether the employer is located inside or outside of Vermont.

Chart 2 - State Guidance for Employer Withholding with Telecommuting Employees (Covid-19) as of September 1, 2020

Different rules can apply to employee sourcing and employer withholding. With an increased number of telecommuting employees due to Covid-19, some states have issued withholding guidance. While Ayco does not counsel employers on their withholding obligations, this guidance is included for informational purposes only.

State/City	Withholding Guidance
Alabama	Alabama residents are taxable on all of their income, regardless of whether they work either within or outside the state. During the federally declared period of emergency due to the coronavirus (COVID-19) pandemic, Alabama will not change withholding requirements for businesses based on an employee's temporary telework location within Alabama that is necessitated by the pandemic and related federal or state measures to control its spread. Alabama will not consider temporary changes in an employee's physical work location during periods in which temporary telework requirements are in place due to the pandemic to impose nexus or alter apportionment of income for any business.
District of Columbia – unincorporated business tax	The Office of Tax and Revenue will not seek to impose corporation franchise tax or unincorporated business franchise tax nexus solely on the basis of employees or property used to allow employees to work from home (e.g., computers, computer equipment, or similar property) temporarily located in the District during the period of the declared public emergency and public health emergency, including any further extensions by the Mayor.
Georgia	<p>The GA website contains the following Q&amp;A:</p> <p>If my employees are working from home due to the Corona Virus pandemic, does that modify my company's nexus determination or the amount of my employee's Georgia wages and therefore my company's Georgia income tax withholding obligation?</p> <p>In response to the remote work requirements associated with the Corona Virus pandemic, the Department will not use someone's relocation, that is the direct result of temporary remote work requirements arising from and during the Corona Virus pandemic, as the basis for establishing Georgia nexus or for exceeding the protections provided by P.L. 86-272 for the employer of the temporarily relocated employee. Also, if the employee is temporarily working in Georgia, wages earned during this time period would not be considered Georgia income and therefore the company is not required to withhold Georgia income tax.</p> <p>The temporary protections provided under this guidance will extend for periods of time where:</p>

Georgia cont'd	<p>There is an official work from home order issued by an applicable federal, state or local government unit, or pursuant to the order of a physician in relation to the COVID-19 outbreak or due to an actual diagnosis of COVID-19, the employee is working at home.</p> <p>Additionally, the subsequent 14 days are included in the time period to allow for a return to normal work locations.</p> <p>Also:</p> <ol style="list-style-type: none"> <li>1. If the person remains in Georgia after the temporary remote work requirement has ended, the normal rules or determining nexus, the employee's wages, and the employer's income tax withholding obligation will apply.</li> <li>2. A company may not assert that solely having a temporarily relocated employee in Georgia, under the circumstances described above, creates nexus for the company or exceeds the protections of P.L. 86-272 for the company.</li> <li>3. Wages paid to a nonresident employee that normally works in Georgia but that is temporarily working in another state, under the circumstances described above, would be considered Georgia wages and the employer should continue to withhold Georgia income taxes.</li> </ol>
Illinois	<p>Employee compensation is subject to Illinois Income Tax Withholding when the employee has performed normal work duties in Illinois for more than 30 working days. If an Illinois resident employee has performed work for more than 30 working days from their home in Illinois for an out-of-state employer, the employer may be required to register with the Illinois Department of Revenue (IDOR) and withhold Illinois Income Tax from the employee.</p> <p>Out-of-state employers from states that have a reciprocal agreement with Illinois (Iowa, Kentucky, Michigan, Wisconsin) do not need to change the way that they currently operate.</p>
Indiana	<p>Withholding requirements will not change if as a direct result of temporary remote work requirements arising from and during the Covid-19 pandemic health crisis an employee is working in the state. This temporary rule only applies while there is an official work from home order issued by an applicable federal, state or local government unit, or pursuant to the order of a physician in relation to the Covid-19 outbreak or due to an actual diagnosis of Covid-19, plus 14 days to allow for return to normal work locations.</p>

Indiana cont'd	If the person remains in Indiana after the temporary remote work requirement has ended, nexus may be established for that employer.
Iowa	While Iowa's state of emergency in response to COVID-19, or similar declared state of emergency in the state where the worker normally worked prior to the COVID-19 pandemic, remains in effect, the Department will not consider the presence of one or more employees working remotely from within Iowa solely due to the COVID-19 pandemic, by itself, sufficient business activity within the state to establish Iowa corporate income tax nexus.
Kentucky	<p>Employers employing Kentucky residents and/or nonresidents who reside in states with which Kentucky has a reciprocal agreement will not need to change their current withholding practices during the period when these employees are working from home. These employees' Kentucky state income tax obligations remain unchanged by restrictions related to the COVID-19 public health emergency.</p> <p>DOR will continue reviewing Kentucky state income tax nexus determinations for employers with telecommuting employees on a case-by-case basis.</p>
Maryland	<p>MD issued guidance on employer withholding obligations stating that the state will consider the temporary nature of a business' interim workplace model in response to Covid-19. MD does not intend to change or alter the facts and circumstances it has consistently used to determine nexus.</p> <p>MD also stated that it will not impose a withholding obligation on wages paid to an employee who regularly works in a MD office, but that is temporarily working from home outside MD.</p>
Massachusetts	<p>TIR 20-10 released on 07/21/2020 announced that, while the rules in this TIR remain in effect, the presence of one or more employees working remotely in Massachusetts due to (a) a government order issued in response to the COVID-19 pandemic, (b) a remote work policy adopted by an employer in good faith compliance with federal or state government guidance or public health recommendations relating to COVID-19, or (c) the worker's compliance with quarantine, isolation directions relating to a COVID-19 diagnosis or suspected diagnosis, or advice of a physician relating to COVID-19 exposure (collectively, "Pandemic-Related Circumstances") will not, by itself, create a withholding obligation with respect to such employees.</p> <p>This is effective through the earlier of December 31, 2020, or 90 days after the date on which the Governor of the Commonwealth</p>

Massachusetts cont'd	gives notice that the state of emergency declared in Executive Order 591 is no longer in effect.
Mississippi	MS will not change withholding requirements for businesses based on an employee's temporary telework location. New withholding requirements will not be imposed on employers. MS will not use any changes in the employee's temporary work locations due to the pandemic to impose nexus or alter the apportionment of income for any business while temporary telework requirements are in place.
Nebraska	DOR will not require employers to change the state which was previously established in their payroll systems for income tax withholding purposes for employees who are now telecommuting or temporarily relocated to a work location within or outside Nebraska due to the COVID-19 pandemic. A change in work location is not required beginning with the date the emergency was declared, March 13, 2020, and ending on January 1, 2021, unless the emergency is extended.
New Jersey	<p>NJ contains a FAQ section on its website that attempts to address employer withholding rules, but it is rather confusing because NJ uses the term "sourcing". Employers don't source income, they withhold. For what it is worth, here is the guidance:</p> <p>Does the Division plan to issue any written guidance to employers in your state regarding how to source the wages of their employees who regularly work in your state but who are (or will be) telecommuting from an out-of-state home office or who are (or will be) temporarily relocated at an out-of-state employer location? Does the answer differ if the temporary relocation is to another office of the employer or the employee's home office?</p> <p>New Jersey sourcing rules dictate that income is sourced based on where the service or employment is performed based on a day's method of allocation. However, during the temporary period of the COVID-19 pandemic, wage income will continue to be sourced as determined by the employer in accordance with the employer's jurisdiction.</p> <p>The Reciprocal Personal Income Tax Agreement between New Jersey and Pennsylvania eliminates wage sourcing issues for these employees as there is agreement to not tax the wages of a resident of the other state.</p> <p>Would the Division advise employers in your state to not change the current work state set-up for employees in their payroll systems who are now telecommuting or are temporarily relocated at an out-of-state employer location?</p>

New Jersey cont'd	The Division would not require employers to make that change for this temporary situation. However, employers must consider their unique circumstances and make that decision.
North Dakota	ND guidance provides that "if the telecommuting is attributable to a Covid related response and is intended to be temporary, North Dakota will not assert income tax nexus on that basis alone."
Ohio Municipal Income Tax	Ohio passed legislation providing that pandemic-related remote work does not count toward the 20-day withholding threshold for municipal income taxes.
Oregon	The Oregon Department of Revenue explains that for Oregon corporate excise (income) tax purposes "the presence of teleworking employees of the corporation in Oregon between March 8, 2020 and November 1, 2020 won't be treated by the department as a relevant factor when making a nexus determination if the employee(s) in question are regularly based outside Oregon."
Pennsylvania	PA continues to require employers with employees temporarily working from their out-of-state residence due to Covid-19 to withhold PA tax, even if the state the employee resides in has no reciprocity agreement with PA. PA will not consider the temporary work-from-home arrangement as a change to the sourcing of the employee's compensation.
Rhode Island	<p>Under the emergency regulation, the income of employees who are nonresidents temporarily working outside of Rhode Island solely due to the pandemic will continue to be treated as Rhode Island-source income for Rhode Island withholding tax purposes.</p> <p>Under the emergency regulation, Rhode Island will not require employers located outside of Rhode Island to withhold Rhode Island income taxes from the wages of employees who are Rhode Island residents temporarily working within Rhode Island solely due to the pandemic.</p>
South Carolina	<p>Effective from March 13, 2020 through December 31, 2020, South Carolina will not use the temporary change of an employee's work location during the COVID-19 relief period to impose a South Carolina withholding.</p> <p>Accordingly, the wages of nonresident employees temporarily working remotely in another state instead of their South Carolina business location are still subject to South Carolina withholding.</p> <p>Accordingly, the wages of a South Carolina resident employee temporarily working remotely from South Carolina instead of their normal out-of-state business location are not subject to South Carolina withholding if the employer is withholding income taxes on behalf of the other state.</p>

St. Louis (City), Missouri	The City of St. Louis, Missouri (City) Collector of Revenue (Collector) states that with respect to its individual “Earnings Tax,” employees who have been working remotely due to the COVID-19 pandemic or in conjunction with the acting City Health Commissioner’s Order “should be treated as working at their original, principal place of work,” and their employers “should continue to withhold on those employees in the same manner as they did prior to the temporary relocation of their employees.” Under these circumstances, the Collector also explains that days worked out of the City due to a temporary reassignment caused by the COVID-19 pandemic or the acting City Health Commissioner’s Order “may not be included in the Non-Residency Deduction formula on Form E-1R when claiming a refund for tax year 2020.”
Vermont	For businesses who have remote workers located in Vermont only on a temporary basis, Vermont will not require that business to change the employee’s withholding state. However, businesses and their employees who have temporary remote workers in Vermont may wish to discuss a change to the employee’s withholding state if the employee intends to be here for an extended time period, albeit temporarily. Workers who have moved to Vermont permanently and make Vermont their domicile will need to have their withholding location changed.

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