

State Guidance related to COVID-19: Telecommuting Issues
Updated last on June 10, 2020

<u>State</u>	<u>Nexus imposed due to telecommuting?</u>	<u>State Guidance</u>	<u>What state gets to tax the income of a telecommuter?</u>	<u>State Guidance</u>
Alabama	No	The Alabama DOR issued guidance that “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.” <u>AL DOR, Alabama Department of Revenue Coronavirus (COVID-19) Updates</u>	Employee’s regular place of work (i.e., the employer’s home state)	“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.” <u>AL DOR, Alabama Department of Revenue Coronavirus (COVID-19) Updates</u>
D.C.	No (for corporation and unincorporated business tax purposes)	The D.C. Office of Tax and Revenue announced that it “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.” <u>D.C. OTR, Tax Notice 2020-05, Apr. 10, 2020</u>		
Georgia	No	The Georgia DOR posted to its FAQ’s that “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	Employee’s regular place of work (i.e., the employer’s home state)	The Georgia DOR posted to its FAQ’s that “if the employee is temporarily working in Georgia, wages earned during this time period would not be considered Georgia income and therefore the

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		<p>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. . . .</p> <p>The temporary protections provided under this guidance will extend for periods of time where:</p> <ol style="list-style-type: none"> 1. There is an official work from home order issued by an applicable federal, state or local government unit, or 2. 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. Additionally, the subsequent 14 days are included in the time period to allow for a return to normal work locations. <p>Also:</p> <ol style="list-style-type: none"> 1. If the person remains in Georgia after the temporary remote work requirement has ended, the normal rules for determining nexus, the employee’s wages, and the employer’s income tax withholding obligation will apply. 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.” <u>GA DOR, Coronavirus Tax Relief FAQs</u> 		<p>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> <ol style="list-style-type: none"> 1. There is an official work from home order issued by an applicable federal, state or local government unit, or 2. 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>Additionally, the subsequent 14 days are included in the time period to allow for a return to normal work locations.” <u>GA DOR, Coronavirus Tax Relief FAQs</u></p>
Illinois	No guidance		Employee’s home state (if working there for more than 30 days)	Illinois Department of Revenue issued an informational bulletin that said that “out-of-state employers who normally would not be required to withhold Illinois income tax from employees that are Illinois

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				<p>residents may now be subject to Illinois withholding requirements. 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.” <u>Illinois Dept. of Rev. Info. Bulletin No. FY 2020-29, (May 1, 2020).</u></p>
Indiana	No	<p>Indiana issued guidance on its Coronavirus Information page that “the Indiana Department of Revenue will not use someone's relocation, that is the direct result of temporary remote work requirements arising from and during the COVID-19 pandemic health crisis, as the basis for establishing Indiana nexus or for exceeding the protections provided by P.L. 86-272 for the employer of the temporary relocated employee.”</p> <p>“The temporary protections provided under this guidance will extend for periods of time where:</p> <ol style="list-style-type: none"> 1. there is an official work from home order issued by an applicable federal, state or local government unit, or 2. 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. 		

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		<p>If the person remains in Indiana after the temporary remote work requirement has ended, nexus may be established for that employer. Likewise, an employer may not assert that solely having a temporarily relocated employee in Indiana under the circumstances described above creates nexus for the business or exceeds the protections of P.L. 86-272 for the employer.” <u>IN DOR, Coronavirus Information</u></p>		
Iowa	No	<p>The Iowa DOR posted the following FAQ: “Will the presence of employees temporarily telecommuting from within Iowa solely as a result of states of emergency declared in response to COVID-19 establish Iowa income tax nexus for a business that does not otherwise have nexus in this state?”</p> <p>No. . . . [W]hile 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. Nor does the Department consider such presence by non-sales employees due to the pandemic sufficient, by itself, to cause a corporation to lose the protections of Public Law 86-272. The position contained in this document only applies to states of emergency declared in response to COVID-19. This position does not</p>	Employee’s home state	<p>The Iowa DOR posted the following FAQ: “Will Iowa individual income tax filing and withholding requirements change as a result of temporary telecommuting due to COVID-19?”</p> <p>No, Iowa individual income tax and withholding requirements have not been modified by the COVID-19 pandemic.</p> <p>Compensation for personal services rendered within the state of Iowa is subject to Iowa income tax, unless that income is exempted by a specific provision of Iowa law. . . . 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.” <u>IA DOR, COVID-19</u></p>

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		extend to other facts and circumstances.” <u>IA DOR, COVID-19</u>		
Maryland	No	<p>Maryland issued a Tax Alert that stated that “the Comptroller’s Office does not intend to change or alter the facts and circumstances it has consistently used to determine nexus or income sourcing. . . . Consequently, the Office will recognize the temporary nature of a business’ interim workplace model and employee deployment in light of and during the current health emergency and will not use these temporary measures to impose business nexus, to alter the sourcing of business income, or to impose additional withholding requirements on the employer.” <u>Comptroller of MD, Tax Alert 5-04-20</u></p> <p>In addition, in Maryland, nexus is generally created by maintaining a business location in the state. “A residence of an employee or representative is not ordinarily considered a ‘business location’ of the employer unless the facts indicate otherwise.” Occasional or isolated use of the residence “will not normally cause the residence to be considered as a business location.” <u>MD Admin. Release No. 2, Sept. 1, 2009</u></p>	Employee’s home state	<p>Maryland issued a Tax Alert that stated that “Maryland employer withholding requirements are not affected by the current shift from working on the employer’s premises to teleworking because taxability is determined by the employee’s physical presence. Generally, Maryland imposes income tax, and therefore a withholding requirement on employers, for employees domiciled in Maryland, statutory residents of Maryland, and non-residents receiving Maryland-sourced income. . . . Compensation paid to a Maryland nonresident who is teleworking in Maryland is Maryland-sourced income, and therefore, subject to withholding.” <u>Comptroller of MD, Tax Alert 5-04-20</u></p>
Massachusetts	No (for corporate and sales and use tax purposes)	<p>Massachusetts issued a technical information release which says</p> <p>Corporate Tax “For the duration of the Massachusetts COVID-19 state of emergency, the Department will not consider the presence of one or more employees working remotely from Massachusetts solely due to</p>	Employee’s regular place of work (i.e., the employer’s home state)	Massachusetts instituted an emergency regulation that says “all compensation received for personal services performed by a non-resident who, immediately prior to the Massachusetts COVID-19 state of emergency, was an employee engaged in performing such services in Massachusetts, and who during such

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		<p>the COVID-19 pandemic to be sufficient in and of itself to establish corporate nexus. In addition, such presence will not, of itself, cause a corporation to lose the protections of Public Law 86-272.” It addition “ for the duration of the COVID-19 state of emergency, services performed by such an employee in Massachusetts will not be considered to increase the numerator of the employer’s payroll factor for corporate apportionment purposes.” Mass. TIR 20-5, Apr. 21, 2020</p> <p>Sales Tax “For the duration of the COVID-19 state of emergency in Massachusetts, the presence of one or more employees that previously worked in another state but, solely due to the COVID-19 pandemic, are working remotely from Massachusetts, will not in and of itself trigger nexus for sales and use tax collection purposes.” Mass. TIR 20-5, Apr. 21, 2020</p>		<p>emergency is performing such services from a location outside Massachusetts due solely to the Massachusetts COVID-19 state of emergency, will continue to be treated as Massachusetts source income subject to personal income tax . . . and personal income tax withholding.” A tax credit will be available under M.G.L. c. 62, section 6(a) for resident employees who worked in another state but are now required to work in Massachusetts because of the pandemic if they continue to incur an income tax liability under the sourcing rules of the state where they previously worked. This is effective Mar. 10, 2020 until the state of emergency is no longer in effect. 830 CMR 62.5A.3</p>
Minnesota	No (for corporate or sales and use tax purposes)	The Minnesota DOR posted to its FAQ’s that “The department will not seek to establish nexus for business income tax or sales and use tax solely because an employee is temporarily working from home due to the COVID-19 pandemic.” <u>MN DOR, COVID-19 FAQs for Businesses</u>	Employee’s home state	<p>The Minnesota DOR posted to its FAQ’s the follow question and answer: “I’m temporarily telecommuting due to COVID-19. Will my Minnesota Individual Income Tax filing requirement for tax year 2020 be affected?</p> <p>It depends if you're a Minnesota resident, part-year resident, or nonresident.</p> <p>Nonresidents or part-year residents: You may need to apportion your income based on the number of days you work from home.</p>

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				Nonresidents need to divide the number of days worked in Minnesota by the total number of days worked.” <u>MN DOR, COVID-19 FAQs for Individuals</u>
Mississippi	No	The Department issued guidance that “Mississippi will not use any changes in the employees temporary work locations due to the pandemic to impose nexus or alter apportionment of income for any business while temporary telework requirements are in place.” <u>Miss. DOR, Press Release, Mar. 26, 2020</u>	Employee’s regular place of work (i.e., the employer’s home state)	The Department issued guidance that “Mississippi will not change withholding requirements for businesses based on the employee’s temporary telework location. Mississippi residents are taxable on their total income, regardless of where they work. However, we will not impose any new withholding requirements on the employer.” <u>Miss. DOR, Press Release, Mar. 26, 2020</u>
Nebraska	No guidance		Employee’s regular place of work (i.e., the employer’s home state)	The Nebraska DOR posted the following FAQ: “Do employers/payors need to change how they report or remit income tax withholding for employees who were working onsite before the COVID-19 pandemic, but who are now temporarily working from an alternate site, including from home, to remain safe? No. 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

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				<p>date the emergency was declared, March 13, 2020, and ending on January 1, 2021, unless the emergency is extended.” <u>NE DOR, Frequently Asked Questions about the Income Tax Changes Due to the COVID-19 National Emergency</u></p>
<p>New Jersey</p>	<p>No (for corporate and sales and use tax purposes)</p>	<p>The Division of Taxation posted on its website that:</p> <p>Corporate Tax: “As a result of COVID-19 causing people to work from home as a matter of public health, safety, and welfare, the Division will temporarily waive the impact of the legal threshold within N.J.S.A. 54:10A-2 and N.J.A.C. 18:7-1.9(a) which treats the presence of employees working from their homes in New Jersey as sufficient nexus for out-of-state corporations. In the event that employees are working from home solely as a result of closures due to the coronavirus outbreak and/or the employer's social distancing policy, no threshold will be considered to have been met.” <u>NJ Div. of Tax., Businesses</u></p> <p>Sales Tax: “As a result of the COVID-19 pandemic, several employees have been required to work from their New Jersey home. The Division will temporarily waive the Sales Tax nexus standard which is generally met if an out-of-State seller has an employee working in this State. Thus, as long as the out-of-State seller did not maintain any physical presence other than employees working from home in New Jersey and is below the economic thresholds the Division will not consider the out-of-</p>	<p>Employee’s regular place of work (i.e., the employer’s home state)</p>	<p>The Division of Taxation posted on its website the following question and answer: “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. The Reciprocal Personal Income Tax Agreement between New Jersey and Pennsylvania eliminates wage sourcing issues for these</p>

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		State seller to have nexus for Sales Tax purposes during this time period.” <u>NJ Div. of Tax., Telecommuter COVID-19 Employer and Employee FAQ</u>		employees as there is agreement to not tax the wages of a resident of the other state.” <u>NJ Div. of Tax., Telecommuter COVID-19 Employer and Employee FAQ</u>
North Dakota	No (for corporate income tax purposes)	The state issued guidance saying “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” In addition “If the telecommuting is attributable to a COVID related response and is intended to be temporary, North Dakota will not require inclusion of that payroll in the numerator of the payroll factor.” <u>ND Tax, COVID-19 Tax Guidance, Apr. 15, 2020</u>		
Pennsylvania	No (for corporate and sales and use tax purposes)	<p>Pennsylvania posted on its “Find Answers” the following responses:</p> <p>Corporate Net Income Tax “The department will not seek to impose CNIT nexus solely on the basis of this temporary activity occurring during the duration of this emergency.” <u>PA Dept. of Rev., Find Answers, Answer ID 3738, Apr. 3, 2020</u></p> <p>Sales Tax “The department will not seek to impose SUT nexus solely on the basis of this temporary activity occurring during the duration of this emergency.” <u>PA Dept. of Rev., Find Answers, Answer ID 3740, Apr. 3, 2020</u></p>	Employee’s regular place of work (i.e., the employer’s home state)	<p>Pennsylvania posted on its “Find Answers” the following question and answer: “If an employee who normally works in PA and receives PA source compensation works from home in another state temporarily due to the COVID-19 pandemic, does the source of his compensation change to non-PA source compensation?”</p> <p>“If the employee is working from home temporarily due to the COVID-19 pandemic, the department would not consider that as a change to the sourcing of the employee’s compensation. It would remain PA source income for all tax purposes, including PA-40 reporting,</p>

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				employer withholding and three-factor business income apportionment purposes for S Corporations, partnerships and individuals.” <u>PA Dept. of Rev., Find Answers, Answer ID 3739, Apr. 3, 2020</u>
Rhode Island	No (for corporate and sales and use tax purposes)	<p>The RI DOR issued the following guidance:</p> <p>Corporate Income Tax: “For the duration of Rhode Island’s coronavirus state of emergency, the Rhode Island Division of Taxation will not seek to establish nexus for Rhode Island corporate income tax purposes solely because an employee is temporarily working from home during the state of emergency, or because an employee is temporarily working from home during the state of emergency and is using property to allow the employee to work from home (e.g., computers, computer equipment, or similar property) temporarily during the state of emergency. Put another way, the presence of one or more employees that previously worked in another state but, solely due to the state of emergency, are working remotely from Rhode Island, will not in and of itself trigger nexus for Rhode Island corporate income tax purposes.”</p> <p>Sales Tax: “For the duration of Rhode Island’s coronavirus state of emergency, the Rhode Island Division of Taxation will not seek to establish nexus for Rhode Island sales and use tax purposes solely because an employee is temporarily working from home during the state of emergency, or because an employee is temporarily working from home during</p>	Employee’s regular place of work (i.e., the employer’s home state)	<p>The RI issued the following guidance related to the emergency regulation 280-RICR-20-55-14: “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. Example: A Massachusetts resident works for a Rhode Island employer, normally performs his tasks within Rhode Island, and has wages that are subject to Rhode Island income tax withholding. If the employee is temporarily working within Massachusetts due to the pandemic, the employer should continue to withhold Rhode Island income tax because the employee’s work is derived from or connected to a Rhode Island source.</p> <p>Another part of the guidance involves Rhode Island residents who are employed by an employer outside of Rhode Island, and normally work outside of Rhode Island, but who are temporarily working remotely in Rhode Island.</p>

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		<p>the state of emergency and is using property to allow the employee to work from home (e.g., computers, computer equipment, or similar property) temporarily during the state of emergency. Put another way, the presence of one or more employees that previously worked in another state but, solely due to the state of emergency, are working remotely from Rhode Island, will not in and of itself trigger nexus for Rhode Island sales and use tax purposes.” <u>RI DOR, ADV 2020-24 (May 28, 2020)</u></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. Example: A Rhode Island resident works for an employer in Connecticut, normally performs her tasks within Connecticut, and has wages that are subject to Connecticut income tax withholding. If the employee is temporarily working within Rhode Island solely due to the pandemic, the employer will not be required by Rhode Island to withhold Rhode Island income taxes from that employee’s wages for the duration of the emergency.” <u>RI DOR, ADV 2020-22 (May 26, 2020)</u></p>
South Carolina	No	<p>The SC DOR released an information that said, “the Department will not use changes solely in an employee’s temporary work location due to the remote work requirements arising from, or during, the COVID-19 relief period (March 13, 2020 – September 30, 2020) as a basis for establishing nexus¹ or altering apportionment of income.” <u>SC DOR, Information Letter #20-11 (May 15, 2020)</u></p>	Employee’s regular place of work (i.e., the employer’s home state)	<p>The SC DOR issued an information letter on withholding for resident and nonresident employees and businesses:</p> <p>SC Business with Employees Temporarily Changing Work Location to Outside South Carolina: “During the COVID-19 relief period, a South Carolina business’s withholding requirements are not affected by the current shift of employees working on the employer’s premises in South Carolina to teleworking from outside of South Carolina. Accordingly, the wages of</p>

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				<p>nonresident employees temporarily working remotely in another state instead of their South Carolina business location are still subject to South Carolina withholding." <u>SC DOR, Information Letter #20-11 (May 15, 2020)</u></p>