

Income/Franchise:

Massachusetts DOR Issues Draft Personal Income Tax Guidance on Pandemic-Related Telecommuting

Working Draft Directive: Personal Income Tax Guidance for Employees who Telecommuted in 2020 due to the COVID-19 State of Emergency, Mass. Dept. of Rev. (2/12/21). Following its adoption of an emergency administrative rule on COVID-19 pandemic-related telecommuting and the sourcing of income for residents and nonresidents [see *State Tax Matters*, Issue 2020-49, for more details on this emergency rule], the Massachusetts Department of Revenue (Department) has issued a working draft directive to “assist individuals who telecommuted in 2020 because of the COVID-19 pandemic with the preparation of their 2020 personal income tax returns.” The working draft directive explains the rules applicable to:

URL: <https://www.mass.gov/directive/working-draft-directive-personal-income-tax-guidance-for-employees-who-telecommuted-in>

URL: https://newsletters.usdbriefs.com/2020/Tax/STM/201211_2.html

1. Nonresidents who worked in Massachusetts prior to the Massachusetts COVID-19 state of emergency, but who began working remotely from a location outside Massachusetts due to a pandemic-related circumstance (*i.e.*, “non-resident telecommuting employees”); and
2. Residents who worked in another state prior to the Massachusetts COVID-19 state of emergency, but who began working remotely from a location within Massachusetts due to a pandemic-related circumstance (*i.e.*, “resident telecommuting employees”).

The working draft directive stipulates that it “does not apply to the sourcing of wage income of employees earned from a new job that commenced after March 10, 2020.” As currently drafted, the guidance concludes that for 2020, non-resident telecommuting employees who worked in Massachusetts prior to the Massachusetts COVID-19 state of emergency and who later telecommuted from locations outside Massachusetts due to a defined “pandemic-related circumstance” must continue to source their wages earned from such subsequent employment to Massachusetts. Additionally, non-resident employees who, prior to the Massachusetts COVID-19 state of emergency, apportioned their wages to Massachusetts pursuant to 830 CMR 62.5A.1(5)(a) “must determine the amount of their wages that is Massachusetts source income based on either the percentage of their work days spent in Massachusetts during the period January 1 through February 29, 2020, or the apportionment percentage properly used to determine the portion of their wages from that employer that constituted Massachusetts source income as reported on their 2019 Massachusetts personal income tax return.”

Furthermore, for 2020, resident telecommuting employees who worked in a state other than Massachusetts prior to the Massachusetts COVID-19 state of emergency and subsequently telecommuted from Massachusetts due to a pandemic-related circumstance “will be eligible for a credit for taxes paid to that other state to the extent allowed under M.G.L. c. 62, § 6(a) if the other state applies similar sourcing rules.” The working draft directive also states that individuals who spent more than 183 days in, and maintained a permanent place of abode in, Massachusetts during 2020 are considered Massachusetts statutory residents

for such year, regardless of whether the 183-day threshold was exceeded because of a pandemic-related circumstance. Please contact us with any questions.

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