

Income/Franchise:

Delaware Division of Revenue Addresses Pandemic-Related Telecommuting and Treatment of Wage Income

Technical Information Memorandum 2021-2, Del. Div. of Rev. (3/18/21). Responding to the COVID-19 pandemic and the treatment of wages for individuals working remotely during it – including how to report days worked from a home located outside of Delaware on their 2020 Delaware income tax returns – the Delaware Division of Revenue (Division) explains that while Delaware “has long considered work done by employees from their homes to be ‘attributable’ to Delaware employment when the employee is working from home for their own convenience and not because the work is required by the employer to be performed from home,” such individuals may treat all days on which they actually worked from a home outside of Delaware during March 22, 2020 through May 31, 2020 as days worked outside of Delaware. From and after June 1, 2020, the Division explains that such taxpayers may report days worked from home as days worked outside of Delaware on their Delaware “Schedule W” if:

URL: <https://revenuefiles.delaware.gov/2021/TIM%202021-2%20-%20treatment%20of%20remote%20work%20in%202020.pdf>

1. The taxpayer’s employer directed the employee to work from home and directed that employees were not permitted to work at the usual Delaware location, or
2. The employer strongly encouraged remote work but required an employee seek advance permission to return in person.

The Division also provides that once such individual taxpayers are “again permitted discretion to return to offices within Delaware in person,” the taxpayers may *not* report days worked from home as days worked outside of Delaware on Schedule W “if the employee elected, but was not required, to work remotely.” Please contact us with any questions.

— Kenn Stoops (Philadelphia)
Managing Director
Deloitte Tax LLP
kstoops@deloitte.com

Stacy Ip-Mo (Philadelphia)
Senior Manager
Deloitte Tax LLP
sipmo@deloitte.com

Bob Kovach (Pittsburgh)
Senior Manager
Deloitte Tax LLP
rkovach@deloitte.com

John Damin (Philadelphia)
Senior Manager
Deloitte Tax LLP
jdamin@deloitte.com

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