

## Income/Franchise:

### Federal: Reintroduced Remote and Mobile Worker Relief Bill Addresses COVID-19 Pandemic

S.1274, introduced in Senate 4/21/21. Similar to a federal bill introduced in the US Senate last year [see S.3995, introduced in US Senate 6/18/20], pending legislation known as the “Remote and Mobile Worker Relief Act of 2021” has been introduced in the US Senate which, if enacted, would “limit the authority of States or other taxing jurisdictions to tax certain income of employees for employment duties performed in other States or taxing jurisdictions, and for other purposes.” The pending legislation, if enacted, would create a bright-line standardized 30-day threshold to determine nonresident income tax liability in state and local taxing jurisdictions so that:

[URL: https://www.congress.gov/bill/117th-congress/senate-bill/1274](https://www.congress.gov/bill/117th-congress/senate-bill/1274)

[URL: https://www.congress.gov/bill/116th-congress/senate-bill/3995/actions](https://www.congress.gov/bill/116th-congress/senate-bill/3995/actions)

1. Employees clearly understand when they are liable for nonresident income taxes, and
2. Employers are able to accurately withhold these state and local individual income taxes.

This pending bill would increase the 30-day threshold to a 90-day threshold for calendar years 2020 and 2021 in some instances to accommodate the COVID-19 pandemic – specifically “in the case of any employee who performs employment duties in any taxing jurisdiction other than the taxing jurisdiction of the employee’s residence during such year as a result of the COVID-19 public health emergency.”

The pending federal legislation additionally creates a temporary nexus exception for certain out-of-state businesses with employees “working remotely” during a “covered period” where “working remotely” is defined as the performance of duties by an employee at a location other than the “primary work location” of such employee at the direction of the employer “due to conditions resulting from the public health emergency relating to the virus SARS-CoV-2 or coronavirus disease 2019” (*i.e.*, “COVID-19”), including:

1. To comply with any government order relating to COVID-19;
2. To prevent the spread of COVID-19; and
3. Due to the employee or a member of the employee’s family contracting COVID-19.

The pending federal legislation defines “covered period” with respect to any employee working remotely as the period generally beginning on the date on which such employee began working remotely, and ending on the earlier of:

1. The date on which the employer allows at the same time such employee to return to her/his primary work location *and* not less than 90% of its permanent workforce to return to such work location; or
2. December 31, 2021.

The pending federal legislation defines the term “primary work location” to mean, with respect to an employee, the address of the employer where the employee is regularly assigned to work when such employee is not working remotely during the covered period. Please contact us with any questions.

— Valerie Dickerson (Washington, DC)  
Partner  
Deloitte Tax LLP  
vdickerson@deloitte.com

Gregory Bergmann (Chicago)  
Partner  
Deloitte Tax LLP  
gbergmann@deloitte.com

Joe Garrett (Birmingham)  
Managing Director  
Deloitte Tax LLP  
jogarrett@deloitte.com

Olivia Schulte (Washington, DC)  
Manager  
Deloitte Tax LLP  
oschulte@deloitte.com

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