

Income/Franchise:

Pennsylvania DOR Says Pandemic-Related Nexus and Telecommuting Provisions Expire June 30

Telework Guidance, Penn. Dept. of Rev. (6/21). The Pennsylvania Department of Revenue (Department) announced that its previously issued temporary guidance relating to telework and resulting tax and nexus implications during the COVID-19 pandemic [see *Telework During the COVID-19 Pandemic* for more details on this temporary guidance] is effective until June 30, 2021. As of June 30, the Department explains that such “temporary guidance will no longer be applicable and existing tax law will govern.” Under the Department’s temporary guidance, as a result of the COVID-19 pandemic causing people to temporarily work from home, it generally will *not* seek to impose Pennsylvania corporate net income tax (CNIT) nexus or sales and use tax nexus on an employer solely on the basis of this temporary in-state activity. However, a non-filing out-of-state corporation that continues to have a Pennsylvania resident working at home in 2021 after June 30 “has nexus for 2021 and future years based solely on the activities of that employee, unless the telework activity is protected by P.L. 86-272” (*i.e.*, solicitation of sales of tangible personal property with orders approved and shipped from inventory outside Pennsylvania) for CNIT purposes. Moreover, for state sales and use tax purposes, such corporation “may have nexus for 2021 and future years based solely on the activities of that employee.”

URL: <https://www.revenue.pa.gov/COVID19/Telework/Pages/default.aspx>

URL: <https://www.revenue.pa.gov/COVID19/Telework/Pages/Telework-During-COVID19.aspx>

From an employee perspective, the Department’s temporary guidance provides that if an employee is working from home temporarily due to the COVID-19 pandemic, it generally will not consider that as a change to the sourcing of the employee’s compensation. However, after June 30, “employees will have to evaluate their current working situation and apply existing Pennsylvania tax laws.” Please contact us with any questions.

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