

Income/Franchise:

Federal: Supreme Court Denies Hearing New Hampshire's Challenge to Massachusetts Telework Rule

Docket No. 220154, US (motion for leave to file a bill of complaint denied 6/28/21). The US Supreme Court (Court) denied the New Hampshire Department of Justice's motion for leave to file bill of complaint, which was filed as part of New Hampshire's effort challenging the validity of the Massachusetts Department of Revenue's administrative rule on COVID-19 pandemic-related telecommuting and the sourcing of income for residents and nonresidents – that is, as part of New Hampshire's effort to “rectify Massachusetts' unconstitutional, extraterritorial conduct” with respect to its pandemic-related telework rule. The Massachusetts rule at issue sets forth general sourcing rules that apply to income earned by a nonresident employee who telecommutes on behalf of an in-state business from a location outside Massachusetts due to the COVID-19 pandemic – including potentially sourcing such income to Massachusetts, and explains the “parallel treatment” that may be accorded to resident employees with income tax liabilities in other states that have adopted comparable sourcing rules. New Hampshire's filed motion had asked the Court to exercise original jurisdiction in the case, contending, among other claims, that the Massachusetts rule “ignores deliberate and unique policy choices that are solely New Hampshire's to make.”

URL: <https://www.supremecourt.gov/docket/docketfiles/html/public/22o154.html>

Note that the Massachusetts Department of Revenue recently announced that this telecommuting rule is effective for the period beginning March 10, 2020 and ending September 13, 2021, as Massachusetts rescinded its declaration of a state of emergency related to the COVID-19 pandemic effective June 15, 2021 [see *State Tax Matters*, Issue 2021-25, for more details on this recent announcement]. Please contact us with any questions.

URL: https://dhub.blob.core.windows.net/dhub/Newsletters/Tax/2021/STM/210625_12.html

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