

Income/Franchise:

Massachusetts DOR Reminds that Special Pandemic-Related Telecommuting Rule Expired September 13

Tax Filing Season Frequently Asked Questions: Employees working remotely due to the COVID-19 pandemic: Expiration of the Emergency Pandemic Income Sourcing Rules for Non-Resident Employees, Mass Dept. of Rev. (9/13/21). Following its implementation of an administrative regulation on COVID-19 pandemic-related telecommuting and the sourcing of income for residents and nonresidents – including special rules for wages or other compensation paid to employees who are working remotely (working from home or a location other than their usual work location) due to the COVID-19 pandemic [see *State Tax Matters*, Issue 2021-10, for more details on this rule] – the Massachusetts Department of Revenue (Department) reminds that this special rule expired on September 13, 2021. Accordingly, for the period beginning after September 13, 2021, wages paid to a nonresident employee are no longer sourced based on where the employee worked prior to the COVID-19 state of emergency but rather where the employee’s work is actually performed.

URL: <https://www.mass.gov/info-details/tax-filing-season-frequently-asked-questions#expiration-of-the-emergency-pandemic-income-sourcing-rules-for-non-resident-employees->

URL: https://dhub.blob.core.windows.net/dhub/Newsletters/Tax/2021/STM/210312_4.html

For Massachusetts-based companies, the Department explains that after September 13, 2021, an employer must withhold Massachusetts personal income tax from wages paid to a nonresident employee for work performed in Massachusetts. Moreover, the Department explains that Massachusetts-based employers generally do *not* need to withhold Massachusetts personal income tax from wages paid to a nonresident employee for work performed in another state, even if the employee worked in Massachusetts before the Massachusetts COVID-19 state of emergency and is telecommuting from outside of Massachusetts due to the COVID-19 pandemic. The Department also provides that to the extent that a nonresident employee works part-time in Massachusetts and also part-time in another state, the Massachusetts-based employer must withhold Massachusetts personal income tax from wages paid to the employee for the portion of the work performed in Massachusetts, and will *not* be required to withhold from wages paid for the portion of the work performed outside Massachusetts.

For non-Massachusetts-based companies, the Department explains that after September 13, 2021, an employer must withhold Massachusetts personal income tax on all wages paid to a resident employee for work performed in Massachusetts, regardless of whether the employee worked outside of Massachusetts before the Massachusetts COVID-19 state of emergency and regardless of whether the employee is telecommuting from Massachusetts due to the COVID-19 pandemic. Please contact us with any questions.

— Bob Carleo (Boston)
Managing Director
Deloitte Tax LLP
rcarleo@deloitte.com

Alexis Morrison-Howe (Boston)
Principal
Deloitte Tax LLP
alhowe@deloitte.com

Ian Gilbert (Boston)
Senior Manager
Deloitte Tax LLP
iagilbert@deloitte.com

Tyler Greaves (Boston)
Manager
Deloitte Tax LLP
tgreaves@deloitte.com

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