

## Income/Franchise:

### Delaware Division of Revenue Addresses Return-to-Office Policies, Telecommuting and Wage Income

*Technical Information Memorandum 2022-2*, Del. Div. of Rev. (1/31/22). 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 2021 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 report days worked from home as days worked outside of Delaware on their Delaware “Schedule W” if either:

**URL:** <https://revenuefiles.delaware.gov/2021/TIM%202022-2-treatmentofwageincomeforindividualsworkingremotelyfor2021taxreturns.pdf>

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

The Division also provides that once such individual taxpayers “were again permitted to return to offices within Delaware in person and to use their discretion as to when they would work remotely,” the taxpayers may *not* report days worked from home as days worked outside of Delaware on Schedule W “if the employee was not required to work remotely but elected to do so.” The Division also states that it may, in its discretion, “require written documentation demonstrating any direction or advance permission given by an employer and applicable during 2021 with respect to remote work.” Please contact us with any questions.

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