

Caution: COVID-Era Remote Worker Tax Relief Coming to an End

June 30, 2021



At the onset of the COVID-19 pandemic and subsequent shelter in place orders, many states extended temporary relief from state tax nexus and payroll withholding obligations to out-of-state employers with remote employees working within a state. While under normal circumstances, the physical presence of remote employees in a state often creates income and sales tax nexus and employer payroll withholding tax responsibilities, the relief provisions allowed companies to disregard the presence of remote workers in their state for these tax purposes.

However, as the pandemic comes to a close in the United States, businesses should be aware that states will begin to roll back these exemptions, which were granted solely on the basis that they were temporary.

Some States Have Already Begun Eliminating Exemptions

The first of these states to end to the temporary relief was Pennsylvania, which announced that as of July 1st, an out-of-state business that employs a state resident working from home will have sales and income tax nexus “for 2021 and future years based on the activities of that employee.” As a result, an out-of-state business that did not have any remote workers before the pandemic could be subject to Pennsylvania taxes if their employees do not return to the office.

Indiana similarly announced that these measures will be rescinded and cease on June 30, 2021, and that the presence of a telecommuting employee in Indiana after that date can henceforth be used in determining whether the employer has Indiana nexus.

On June 22nd, Louisiana confirmed legislation to incentivize telecommuting employees to stay in the state by offering a 50% income tax exemption to those individuals who move to the state while working for an out-of-state employer. Such individuals may be eligible to receive the exemption for up to two tax years from 2022 through 2025, capped at \$150,000 annually. Of course, by having a remote employee in Louisiana, the out-of-state employer will establish nexus with the state and be subject to the state's tax regime.

What Businesses Should Do to Prepare

As the sun setting of the COVID relief provisions draw near, businesses should prepare to navigate the tax implications of their newly telecommuting employees. In order to do this, companies should begin monitoring and communicating with their employees about their work arrangements and locations on a prospective basis, and create a "return-to-work" plan that will allow them to start properly assigning employees to particular states as soon as possible. Businesses will then need to evaluate their income tax, sales tax and payroll tax compliance going forward.

If you or your company may be affected by the emerging nexus changes due to remote employees and telecommuting, please contact [Alan Goldenberg](#), Leader of Anchin's State and Local Tax group, or your Anchin Relationship Partner, for more information.

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