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How a Remote Workforce Changes State and Local Tax Requirements

BY SANDRA F. O'NEILL • MAY 26, 2021

Governor Baker announced on Monday, May 17 that Massachusetts will end the COVID-19 state of emergency on June 15, 2021. Given this news, the Massachusetts Pandemic-related Temporary withholding tax rules will expire September 15, 2021 (90-days after the expiration of the state of the emergency). In March, the Massachusetts Department of Revenue (DOR) codified regulations to apply Massachusetts income tax withholding to non-residents formerly commuting to Massachusetts but telecommuting due to the COVID-19 pandemic. The pandemic-related temporary regulations required all compensation received for services performed by a non-resident who, immediately prior to the Massachusetts COVID-19 state of emergency, was an employee engaged in performing such services in Massachusetts, and who performs services from a location outside Massachusetts due to a Pandemic Related Circumstance to be treated as Massachusetts source income subject to personal income tax under M.G.L. c. 62 Section 5A and personal income tax withholding pursuant to M.G.L. c. 62B Section 2.

While the Massachusetts COVID-19 state of emergency will expire in June (and ultimately with it, Massachusetts tax withholding for non-residents), many companies continue to employ remote workers in different states. When employing people remotely in other states, an employer must consider the myriad of state and local requirements that apply. For example, the employer must withhold payroll and income taxes in the state where the employee resides and works remotely. In addition, the employer must consider the income tax consequences from employing individuals in multiple states. States often allocate business income and therefore income taxes in part based on the percentage of company employees working in the state. Different state labor laws (minimum wage, break, family leave, etc.) and workers compensation insurance laws also apply to employees residing in different states. A state may require a business to register with its department of state if the business has employees residing and working in the state. States adopted these different laws governing employment well before technological advances allowed people to work together for one employer across the globe.

It is best to speak with your attorney to help you implement a practical and cost-effective plan to maintain compliance with the different state and local legal and tax requirements for a remote workforce.