

# Telecommuter COVID-19 Employer and Employee FAQ

As our Federal and State governments continue to react to the COVID-19 pandemic in real-time with a primary focus on limiting travel, large gatherings and the movement of our citizens, many businesses are executing contingency plans which require their employees to work remotely where possible. The reassignment of work locations and/or the displacement of workers due to health safety precautions raises many employer and employee concerns.

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## Employer Withholding Tax

**Does the Division plan to issue any written guidance to employers in your state regarding how to source the wages of their employees who regularly work in your state but who are (or will be) telecommuting from an out-of-state home office or who are (or will be) temporarily relocated at an out-of-state employer location? Does the answer differ if the temporary relocation is to another office of the employer or the employee's home office?**

New Jersey sourcing rules dictate that income is sourced based on where the service or employment is performed based on a day's method of allocation. However, during the temporary period of the COVID-19 pandemic, wage income will continue to be sourced as determined by the employer in accordance with the employer's jurisdiction.

The Reciprocal Personal Income Tax Agreement between New Jersey and Pennsylvania eliminates wage sourcing issues for these employees as there is agreement to not tax the wages of a resident of the other state.

**Would the Division advise employers in your state to not change the current work state set-up for employees in their payroll systems who are now telecommuting or are temporarily relocated at an out-of-state employer location?**

The Division would not require employers to make that change for this temporary situation. However, employers must consider their unique circumstances and make that decision.

**If the answer to the above is yes, will the Division waive under-withheld tax, penalties, and/or interest for employers for this period if examined by the Division at a later date?**

Relief may be granted on a case by case basis if circumstances warrant.

**Will the Division permit extensions for the filing of employment tax returns and deposits or relief from interest and penalties (like the California Employment Development Division did in its guidance issued on March 9, 2020)?**

There is currently no extension of time granted for withholding tax payments.

The Division is not aware of any extensions granted for employment tax returns at this time. However, the Department of Labor administers this program.

**Does the Division plan to alter its audit enforcement approach for telecommuters for calendar year 2020 as a result of widespread telecommuting arrangements being instituted by employers to reduce the further spread of the virus?**

The Division does not intend to change its audit program at this time. The Division's current audit program already includes the review of sourcing of income.

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## Personal Income Tax

**Will the Division grant due date extensions for the filing of personal income tax returns and tax remittances or relief from interest and penalties related to the 2019 tax year?**

Current legislation, A-3841, is under review and consideration but has not yet been approved. That legislation would extend the deadline to file tax returns and make payments for all New Jersey Business Corporation and Gross Income Tax Returns to June 30 for GIT and CBT filers. Legislation would be required to make this change. Please note that this is not the same due date as the recently announced federal income tax extension which is July 15.

Because this legislation has not been approved at this time, the current deadlines remain in effect. The Division is committed to providing notice of any change to the current filing and payment deadlines if and when it is announced.

**Will the Division permit the individual employees to reconcile their 2020 nonresident income allocation on their 2020 state individual income tax returns if employers maintain their existing work state data in their payroll systems?**

Taxpayers may use a different allocation if warranted. The Division may request supporting documentation for the allocation.

**If the answer to the above is yes, will the Division waive applicable penalties and/or interest for individual taxpayers for this period upon the filing of their 2020 tax returns and/or if examined at a later date?**

The Division is unable to waive interest as it is mandated by N.J.S.A. 54A:9-5. Relief from applicable penalties may be granted on a case by case basis if circumstances warrant.

**Does the Division plan to issue any written guidance to individual taxpayers regarding how to source their wages for individual income tax purposes if they are performing services as a telecommuter or as a worker temporarily relocated to an out-of-state employer location?**

New Jersey sourcing rules dictate that income is sourced based on where the service or employment is performed based on a day's method of allocation. However, during the temporary period of COVID-19 pandemic, wage income will continue to be sourced as determined by the employer in accordance with the employer's jurisdiction.

The Reciprocal Personal Income Tax Agreement between New Jersey and Pennsylvania eliminates wage sourcing issues for these employees as there is agreement to not tax the wages of a resident of the other state.

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