



August 21, 2020

MA Department of Revenue  
Rulings and Regulations Bureau  
Post Office Box 9566  
Boston, Massachusetts 02114-9566

**RE: Proposed regulation relative to Massachusetts Source Income of Non-Residents  
Telecommuting due to the COVID-19 Pandemic**

To Whom it May Concern:

As Commissioner of the New Hampshire Department of Business and Economic Affairs, I am submitting these comments to the proposed rule titled “Massachusetts Source Income of Non-Residents Telecommuting due to the COVID-19 Pandemic.” My comments address economic policy implications surrounding the Commonwealth’s attempt to extend its taxing authority against New Hampshire residents and the resulting adverse impacts on the New Hampshire economy.

The State of New Hampshire imposes no state personal income or sales tax on its citizens. This policy is a deliberate choice affirmed by governors and legislators of both political parties dutifully elected for more than 50 years. The decision to forego the potential of additional tax revenue through both income and sales taxes combined with a strong fiscal management ethic in state government has provided the State and its citizens a proven economic advantage. The proposed attempt of the Commonwealth of Massachusetts to extend its taxing authority beyond its borders as well as ignoring long-standing tax policies between our states would result in economic harm to the State of New Hampshire and its citizens.

The State of New Hampshire has seen substantial benefit from its long-standing decision to forego personal income taxes. This has been manifested by achieving multiple state fiscal and social policy objectives, including:

- **Increased efficiency of state government.** By restricting state tax revenues, this has resulted in a strong check on the size and scope of New Hampshire State government. Smaller and more efficient state government has proven benefits, which include:
  - More creative and collaborative solutions to economic and community challenges in partnership with communities and stakeholders

- Ability to be nimble in enforcing regulatory compliance, providing guidance and services to residents and employers
  - Closer and more productive relationships between state and municipal governments and among employer communities.
  - Being directly representative of the New Hampshire ethos of "Live Free or Die."
- **Workforce recruitment and retention.** One of the most effective incentives in attracting new residents and workforce is the ability to keep more of their earnings and not pay a state income tax.
  - **Employer recruitment.** Employers seeking to provide benefit for their employees are highly reactive to the absence of personal income tax and existing employers see it as a major recruitment tool for new out of state workforces.
  - **Enhancement of local economies.** As a result of not paying a state income tax, New Hampshire citizens may choose how invest those funds themselves. This extends their consumer purchasing power, which is further magnified by the absence of a state sales tax. In turn, this benefits local merchants and vendors and keeps income otherwise being paid to fund state government circulating within local economies in the form of investments and salaries.

Over the past several years, the combination of these tax policies and the growth of private industry's use of remote working arrangements have proven additionally beneficial to our economy. In order to accelerate these benefits, the State of New Hampshire and its communities have been making investments in infrastructure, including investments in high-speed internet and broadband access. In addition, the State has dedicated up to \$50 million of its federal pandemic relief allocation under CARES Act to continue enhancing access to high speed internet in rural areas of the state.

The onset of the COVID-19 pandemic has accelerated the changes in how we work, and it will be some time before we are able to determine whether the changes are temporary or permanent. In the meantime, a rule that continues to attempt to source wage income to Massachusetts when those workers are no longer commuting to Massachusetts creates confusion and friction. It is further damaging since Massachusetts would continue to apply the "days in/days out" rule for workers who did not previously live or work in Massachusetts, but have been sheltering in Massachusetts during the pandemic. Worse still, a New Hampshire resident who normally would commute to Massachusetts but now is working out of a condo in Vermont would be taxed not only in Vermont but also in Massachusetts, because the Massachusetts rule does not reflect the new realities of how work is being accomplished.

This proposed rule also has impacts beyond New Hampshire and undermines efforts for regional cooperation for economic development and responsiveness to an increasingly mobile workforce. While each of the New England states of course competes for jobs and investment, it is critical that New England states adopt a regional strategy in order for New England to be competitive with other areas of the United States. Massachusetts' proposed Emergency Income Tax Rule runs squarely against the many cooperative efforts in the areas of workforce development and utility, communications, and transportation infrastructure.

In sum, this proposed rule not only will have substantial regional economic impact, but it is a directly counter to tax laws and the resulting economic advantages that have long been the chosen policy in New Hampshire. The fact that it attempts to accomplish this substantial change during a time of economic crisis is particularly troublesome.

For these reasons, my department and the State of New Hampshire vigorously object to the implementation of this proposed rule.

Sincerely,

A handwritten signature in blue ink, appearing to read "T. Caswell". The signature is stylized and cursive.

Taylor Caswell  
Commissioner

Cc: Governor Chris Sununu