

Notice of Public Hearing, January 20, 2021

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THE COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC HEARING

Coronavirus Update: Due to the coronavirus emergency, the Department of Revenue (“DOR”) is holding this public hearing remotely. Details and instructions for participating and testifying remotely (such as through phone line or online connection) at the remote public hearing will be published online at <https://www.mass.gov/service-details/public-hearings-dor> and are included in this notice below. If you plan to testify at the remote hearing, DOR strongly encourages you to register in advance; see below for instructions. DOR encourages you to submit written testimony in addition to, or instead of, providing testimony at the hearing; see below for instructions. Additionally, requests for copies of proposed regulations will not be accepted in person. Details for obtaining copies of proposed regulations are set forth below.

To join the hearing online, go to

<https://massdor.webex.com/massdor/j.php?MTID=m3b90693d37dce4005f3e43d021ed1fd6>

To join the hearing by phone, call 1-408-418-9388 and enter access code: 179 242 3764

Pursuant to the provisions of General Laws Chapter 14, Section 6(1), Chapter 30A, Section 2, and Chapter 62C, Section 3, the Commissioner will hold a public hearing on the following proposed regulation:

830 CMR 62.5A.3: Massachusetts Source Income of Non-Residents Telecommuting due to COVID-19

Scheduled Hearing Date:

Wednesday, January 20, 2021 at 10:00 a.m.

Subject Matter:

830 CMR 62.5A.3 sets forth the sourcing rules that apply to income earned by a non-resident employee who telecommutes on behalf of an in-state business from a location outside the state due to the COVID-19 state of emergency in Massachusetts and explains the parallel treatment that will be accorded to resident employees with income tax liabilities in other states that have adopted similar sourcing rules. The rules in this regulation are effective until 90 days after the state of emergency in Massachusetts is lifted.

The regulation also provides rules for non-resident employees who, prior to the Massachusetts COVID-19 state of emergency, determined their Massachusetts source income by apportioning their days spent in Massachusetts in accordance with 830 CMR 62.5A.1(5)(a). Pursuant to 830 CMR 62.5A.3(3)(b), such non-resident telecommuting employees must determine the portion of their wages that constitutes Massachusetts source income during the Massachusetts COVID-19 state of emergency based on either (1) the percentage of

their work days spent in Massachusetts during the period January 1 through February 29, 2020 as determined under 830 CMR 62.5A.1(5)(a), or (2) if they worked for the same employer in 2019, the apportionment percentage properly used to determine the portion of their wages from that employer that constituted Massachusetts source income as reported on their 2019 Massachusetts personal income tax return.

Information:

Individuals who notify DOR of their intent to testify at the hearing will be afforded an earlier opportunity to speak. Speakers are strongly encouraged to notify DOR of their intention to testify at the hearing by emailing their full name, mailing address and organization or affiliation, if any to RulesandRegs@dor.state.ma.us by January 19, 2021.

Individuals may also submit written testimony by emailing the Rulings and Regulations Bureau at RulesandRegs@dor.state.ma.us.

Please submit electronic testimony as an attached Word document or as text within the body of the email with the name of the regulation in the subject line. All submissions must include the sender's full name, mailing address, and organization or affiliation, if any. Individuals who are unable to submit testimony by email should mail written testimony to the Rulings and Regulations Bureau, Post Office Box 9566, Boston, Massachusetts 02114-9566. Written testimony must be submitted by 5:00 p.m. on January 20, 2021.u

Copies of the proposed regulations will be sent electronically via e-mail to practitioners who are on the Rulings and Regulations Bureau's e-mail list. In addition the proposed regulations are posted on the Department of Revenue's Web site at: <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/regulations/proposedregulations.html>.

Geoffrey E. Snyder
/s/Geoffrey E. Snyder
Commissioner of Revenue