

State Guidance on Telecommuting Issues Related to COVID-19

Due to the COVID-19 pandemic, millions of people have been telecommuting for over a year, either from their home state or elsewhere. Even as some states open their economies back up, it does not change the fact that companies have been allowing employees to telecommute for a significant amount of time. And many companies are allowing employees to telecommute on a more indefinite basis. Allowing employees to telecommute from states in which they do not normally work can create a host of issues for employers, but the two big tax issues relate to nexus and income tax.

First, will the presence of an employee working from home create taxable nexus for the employer in that state?

Second, for income tax purposes, which state is owed income tax when an employee is telecommuting from an out-of-state location?

Below is a chart that outlines how each state has responded to these two telecommuting issues thus far. It relies on Checkpoint's survey of and responses from all 50 states for some of the guidance. Here is a summary of each issue:

Will nexus be established by a work-at-home employee?

The term "nexus" generally refers to the nature and frequency of contacts that an out-of-state company must establish in a state before it becomes subject to that state's tax laws and jurisdiction. Some level of minimal contacts with the state is required under the U.S. Constitution before an out-of-state company is subject to the state's tax laws. And for sales tax purposes, physical presence is no longer required after the U.S. Supreme Court decision in *South Dakota v. Wayfair*. With the nexus threshold so low, most states have said that the presence of one to six telecommuters in the state would give rise to an income tax filing obligation for an out-of-state company.

Our analysis highlights that many states have issued guidance saying that the presence of a telecommuting employee in the state, if her presence is a result of COVID-19, will NOT create nexus with the state. Some states have explicitly stated that this applies for purposes corporate income tax nexus, as well as sales tax nexus.

What state gets to tax the work-at-home employee's wages?

For personal income tax purposes, most states have the rule that the employee's physical presence dictates where tax is due. So, for example, an employee working from his Michigan home for his employer in Illinois is required to pay Michigan income taxes, since he is physically present in Michigan doing work. Pre-COVID, there were six states that imposed a "convenience of the employer" rule that treated days worked-at-home outside the state as days worked in the state for purposes of determining nonresident withholding and personal income tax obligations. These states included New York, Delaware, Nebraska, Pennsylvania, and Arkansas, which eliminated its convenience rule this year, and also Connecticut, which applied the rule (effective 2019) only on a reciprocal basis, i.e., if the taxpayer's home state employed the rule. Under the "convenience of the employer" rule, if the employer or the employee's principal office is located in one of those states, then the employee's compensation earned while telecommuting will be treated

as if earned in the employer’s location, and not from the state in which the employee is telecommuting, if the employee is working remotely for her own convenience and not the employer’s necessity.

Some states have decided not to change the employee’s income tax obligations (and/or the employer’s withholding obligations) based on the employee’s temporary work in their home state—meaning that the tax will still go to the employer’s state, i.e., the state where the employee regularly worked, pre-COVID. But a few others have said that they will continue to apply the physical-presence rule and impose tax on an employee who is working from home. This sets the stage for some double-tax results for employees and employers who straddle two states, who both want their tax.

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Alabama	No	The Alabama DOR issued guidance that “Alabama will not consider temporary changes in an employee’s physical work location during periods in which temporary telework requirements are in place due to the pandemic to impose nexus or alter apportionment of income for any business.” <u>AL DOR, Alabama Department of Revenue Coronavirus (COVID-19) Updates</u>	Employee’s regular place of work (i.e., the employer’s home state)	“Alabama will not change withholding requirements for businesses based on an employee’s temporary telework location within Alabama that is necessitated by the pandemic and related federal or state measures to control its spread.” <u>AL DOR, Alabama Department of Revenue Coronavirus (COVID-19) Updates</u>
Alaska	Yes (for corporate income tax)	Checkpoint surveyed all 50 states, and the Alaska DOR replied that “Alaska does not have any de minimis standard or exception provided in statute or regulation, so an employee whose compensation is assignable to Alaska under 15 AAC 19.241 would create nexus for that business entity.” (Email on File with Checkpoint Catalyst, 05/18/2020.)		No state income tax

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Arizona	<p>No (for corporate income tax)</p> <p>Maybe (for transaction privilege tax)</p>	<p>Checkpoint surveyed all 50 states, and the Arizona DOR replied that the agency “has determined that in general, there is no requirement to waive nexus” for corporate privilege tax. "Telecommuting in Arizona would establish income tax nexus for the employer." However, "if the employee is only telecommuting in this state due to COVID-19 the Department will not consider such telecommuting as creating nexus." (Email on File with Checkpoint Catalyst, 05/21/2020.)</p> <p>The Arizona DOR also replied that the agency "has determined that in general, there is no requirement to waive nexus" for transaction privilege tax purposes. The agency takes the position that "for purposes of transaction privilege tax or TPT nexus, the physical presence standards are not affected by COVID-19. Generally, in this situation, an employee’s in-state activities would not be significantly associated with their employer’s ability to establish and maintain a market in Arizona." (Email on File with Checkpoint Catalyst, 05/21/2020.)</p>		No guidance
Arkansas	No guidance	Checkpoint surveyed all 50 states, and the Arkansas Department of Finance and Administration replied that "Arkansas has	Employee’s regular place of work (i.e., the employer’s home state) until Dec. 31, 2020	Arkansas S.B. 484 was enacted on April 29, 2021, and it reversed the state’s previous policy of requiring taxpayers to source days working from

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		not issued any guidance on suspending nexus rules due to telecommuting because of COVID19. (Email on File with Checkpoint Catalyst, 06/05/2020.)	As of Jan. 1, 2021, state from where employee is telecommuting (i.e., employee's home state)	home back to the location of their regular place of work. As of January 1, 2021, if a nonresident works within and without the state, he must pay Arkansas income tax based on where he is located when performing the work. <u>AR S.B. 484</u>
California	No (for franchise tax purposes)	<p>The California Franchise Tax Board issued guidance on the “stay-at-home” executive order including the following question and response: “Will California treat a corporation that had no previous connections with California as doing business if it has an employee who is currently teleworking in California due to Executive Order N-33-20?”</p> <p>No. California will not treat an out-of-state corporation whose only connection to California is the presence of an employee who is currently teleworking in California due to Executive Order N-33-20 as being actively engaged in a transaction for the purposes of financial or pecuniary gain or profit. Also, California will not include the compensation attributable to an employee who is currently teleworking due to Executive Order N-33-20 in the minimum payroll threshold set forth in California Revenue & Taxation Code section 23101(b)(2)(4).”</p>	State from where employee is telecommuting (i.e., employee's home state)	<p>The California Franchise Tax Board issued guidance on the “stay-at-home” executive order including the following question and response: “Scenario 1: You work for an out-of-state employer and receive a W-2 from them. You temporarily relocate to California. Do you need to file a California return and pay California income tax?</p> <p>Answer: Yes. As a nonresident who relocates to California for any portion of the year, you will have California source income during the period of time you performed services in California. You will need to file a California Nonresident or Part-Year Resident Income Tax Return (Form 540NR) return to report the California sourced portion of your compensation. One way to calculate the portion of your income that is California sourced is to multiply your total amount of income for the year by a ratio of your total number of days performing services in California over your total number of days performing services worldwide.</p> <p>Scenario 2: You work for a California employer and receive a W-2 from them. You relocate temporarily</p>

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		<p>“Will California treat an out-of-state corporation as exceeding the protections of PL 86-272 for California franchise tax purposes if it has an employee who is currently teleworking in California due to Executive Order No. 33-N-20?</p> <p>No. California will treat the presence of an employee who is currently teleworking in California due to the Governor's Executive Order as engaging in de minimis activities for purposes of P.L. 86-272 protection.” <u>CA Franchise Tax Board, COVID-19 Frequently Asked Questions for Tax Relief and Assistance</u></p>		<p>to California. Will you need to file a California return and pay California income tax?</p> <p>Answer: You need to file a California personal income tax return if you performed services in California for wages. Where you performed services determines how you file your taxes (not the location of your employer). Review Scenario 1 for more information.</p> <p>Scenario 3: You’re an independent contractor who relocates temporarily to California. You have not had previous source income from California. Will you need to file a California return?</p> <p>Answer: Maybe. If you are a nonresident independent contractor whose income was not previously considered California source, you would not create California source income simply by relocating temporarily to California. If a customer in California receives the benefit of your services in California, you will need to file a return. California source income for independent contractors is determined by looking to where the benefit of the service is received. The location where the independent contractor performs the work is not a factor.” <u>CA Franchise Tax Board, COVID-19 Frequently Asked Questions for Tax Relief and Assistance</u></p>

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Colorado	Yes	Checkpoint surveyed all 50 states, and the Colorado DOR replied that "there are not currently any executive orders or emergency rules in effect that modify the statutes and rules regarding income tax nexus. Any COVID-19 related tax changes are listed on the COVID-19 Updates web page." In addition, "there are not currently any executive orders or emergency rules in effect that modify the statutes and rules regarding sales tax nexus. Any COVID-19 related tax changes are listed on the COVID-19 Updates web page." (Email on File with Checkpoint Catalyst, 5/19/2020.)	State from where employee is telecommuting (i.e., employee's home state)	Checkpoint received information from the Colorado DOR that it is "not currently evaluating changes to the sourcing of wage income for nonresident individuals. Colo. Code Regs. § 39-22-109(3)(b)(i) generally requires a nonresident to apportion wage income to Colorado on the basis of Colorado work days to total work days. Colo. Rev. Stat. § 39-22-104(4)(t) provides a subtraction from net income on personal income tax returns for wages received by a nonresident while performing disaster-related work in Colorado during a disaster period."
Connecticut	No for 2020 only	Governor Lamont signed H.B.6516 on March 4, 2021, which was effective immediately. The bill provides: "The Department of Revenue Services shall not consider, in determining whether an employer has nexus with this state for purposes of the imposition of any Connecticut tax, the activities of an employee who worked remotely from this state during said taxable year solely due to COVID-19." This applies only to the 2020 taxable year. <u>HB 6516; Commissioner's Bulletin: House Bill No. 6516</u>	State from where employee is telecommuting (i.e., employee's home state) and a credit may be allowed for CT residents for 2020	Governor Lamont signed H.B.6516 on March 4, 2021, which was effective immediately. The bill provides: "Any resident who paid income tax to any other state that uses a convenience of the employer rule shall be allowed a credit against such resident's Connecticut income tax, for the tax paid to such other state on income earned by such resident while working remotely from this state for said taxable year, including while obligated by necessity to work remotely from this state." "Any resident who paid income tax to any other state that has enacted a law or rule requiring a nonresident employee to pay nonresident income tax to such

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				<p>other state on income earned while such nonresident employee was working remotely from this state due to COVID-19 if, immediately prior to March 11, 2020, such nonresident employee was performing such work within such other state, shall be allowed a credit against such resident's Connecticut income tax, for the tax paid to such other state on income earned by such resident while working remotely from this state for said taxable year.” <u>HB 6516</u></p> <p>The CT DOR also issued updated guidance after the passage which provided the following questions and answers:</p> <p>“Will a nonresident who was assigned to an office or work location in Connecticut and who worked remotely during taxable year 2020 in a state that employs a “convenience of the employer” rule be subject to Connecticut income tax on the income earned while he or she worked remotely?</p> <p>No. Connecticut will not impose its income tax on the income that a nonresident employee earned during taxable year 2020 while working remotely in a state that employs a “convenience of the employer” rule, regardless of whether said nonresident employee was working remotely out of convenience or necessity.</p> <p>Will a nonresident who was assigned to an office or work location in Connecticut and who worked remotely during taxable year 2020 in a state that has</p>

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				<p>enacted a law or rule requiring a nonresident employee to pay nonresident income tax to such state be subject to Connecticut income tax on the income earned while he or she worked remotely? No. Connecticut does not impose its income tax on the income that a nonresident employee earns during taxable year 2020 while working remotely in a state that has enacted a law or rule requiring a nonresident employee to pay nonresident income tax to such state</p> <p>Will a nonresident who was assigned to an office or work location in Connecticut and continued to physically work in Connecticut for a Connecticut employer during taxable year 2020 be subject to Connecticut income tax on the income earned while physically present in Connecticut during said taxable year? Yes. Connecticut imposes an income tax on nonresidents on their Connecticut taxable income derived from or connected with sources within this State. Compensation earned for personal services rendered as an employee in Connecticut is considered Connecticut source income. As such, the income a nonresident earned while physically working in Connecticut during taxable year 2020 is subject to Connecticut income tax.” <u>Taxpayer Services Special Bulletin TSSB 2021-1</u></p>

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Delaware	No guidance		State from where employee is telecommuting (i.e., employee's home state) for March 22, 2020 through May 31, 2020 and for after June 1, 2020 if employee not permitted to work in the office	Delaware Division of Revenue issued guidance that its convenience of the employer rule should be disregarded for the following time periods: "Commencing with the Fourth Modification to the State of Emergency, entered on March 22, 2020, through May 31, 2020, broad-based travel limitations and quarantine requirements were in place that caused many employers to require employees to work remotely. Based upon the breadth of the restrictions, taxpayers may treat all days on which they actually worked from a home outside of Delaware during this period as days worked outside of Delaware on Schedule W. On June 1, 2020, Delaware commenced phase one of the reopening plan, which lifted many of the broad-based limitations. As part of this reopening plan, the State continued to encourage telework to the greatest extent possible. From and after June 1, 2020, taxpayers may report days worked from home as days worked outside of Delaware on Schedule W if the taxpayer's employer directed the employee to work from home and directed that employees were not permitted to work at the Delaware location or alternatively if the employer strongly encouraged remote work but required an employee seek advance permission to return in person. Once individual taxpayers were again permitted discretion to return to offices within Delaware in person, taxpayers may not report days worked from home as days worked outside of Delaware on

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				Schedule W if the employee elected, but was not required, to work remotely. <u>DE DOR, Technical Information Memorandum 2021-2 (March 18, 2021)</u>
D.C.	No (for corporation and unincorporated business tax purposes only)	<p>The D.C. Office of Tax and Revenue announced that it “will not seek to impose corporation franchise tax or unincorporated business franchise tax nexus solely on the basis of employees or property used to allow employees to work from home (e.g., computers, computer equipment, or similar property) temporarily located in the District during the period of the declared public emergency and public health emergency, including any further extensions by the Mayor.” <u>D.C. OTR, Tax Notice 2020-05, Apr. 10, 2020</u></p> <p>The D.C. Office of Tax and Revenue announced that it has extended this relief until 90 days after the Mayor declares an end to the public emergency. <u>D.C. OTR, Tax Notice 2020-07, Sept. 3, 2020</u></p> <p>Checkpoint surveyed all 50 states, and the District of Columbia Office of Tax and Revenue replied that nexus-related "Notice 2020- 5 pertains to corporation franchise tax or unincorporated business franchise tax</p>		No guidance

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		only. Sales and Use regulations haven't changed." The agency suggests that businesses follow its COVID-19 updates for the latest information. (Email on File with Checkpoint Catalyst, 05/19/2020.)		
Florida	No guidance			No state income tax
Georgia	No	<p>The Georgia DOR posted to its FAQ's that "In response to the remote work requirements associated with the Corona Virus pandemic, the Department will not use someone's relocation, that is the direct result of temporary remote work requirements arising from and during the Corona Virus pandemic, as the basis for establishing Georgia nexus or for exceeding the protections provided by P.L. 86-272 for the employer of the temporarily relocated employee. . . .</p> <p>The temporary protections provided under this guidance will extend for periods of time where:</p> <ol style="list-style-type: none"> 1. There is an official work from home order issued by an applicable federal, state or local government unit, or 2. Pursuant to the order of a physician in relation to the COVID-19 outbreak or due to an actual diagnosis of COVID-19, the 	Employee's regular place of work (i.e., the employer's home state)	<p>The Georgia DOR posted to its FAQ's that "if the employee is temporarily working in Georgia, wages earned during this time period would not be considered Georgia income and therefore the company is not required to withhold Georgia income tax. . . .</p> <p>The temporary protections provided under this guidance will extend for periods of time where:</p> <ol style="list-style-type: none"> 1. There is an official work from home order issued by an applicable federal, state or local government unit, or 2. Pursuant to the order of a physician in relation to the COVID-19 outbreak or due to an actual diagnosis of COVID-19, the employee is working at home. Additionally, the subsequent 14 days are included in the time period to allow for a return to normal work locations." <u>GA DOR, Coronavirus Tax Relief FAQs</u>

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		<p>employee is working at home. Additionally, the subsequent 14 days are included in the time period to allow for a return to normal work locations.</p> <p>Also:</p> <ol style="list-style-type: none"> 1. If the person remains in Georgia after the temporary remote work requirement has ended, the normal rules for determining nexus, the employee's wages, and the employer's income tax withholding obligation will apply. 2. A company may not assert that solely having a temporarily relocated employee in Georgia, under the circumstances described above, creates nexus for the company or exceeds the protections of P.L. 86-272 for the company." <u>GA DOR, Coronavirus Tax Relief FAQs</u> 		
Hawaii	No guidance	Checkpoint surveyed all 50 states, and the Hawaii DOR replied that it "has not yet made a determination on your question, but it will probably be done on a case-by-case basis." (Email on File with Checkpoint Catalyst, 5/18/2020.)		No guidance
Idaho	Yes	Checkpoint surveyed all 50 states, and the Idaho State Tax Commission replied that "there have not been any changes to existing		Checkpoint received information from a spokesman the Idaho State Tax Commission who said that "the

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		statutes or policies regarding nexus. The Tax Commission does not have that authority unilaterally. The Commissioners will continue to consider cases on an individual basis[;] they can resolve an individual situation. Idaho has less of those nexus issues than some other states. We don't have large urban areas near our borders for the most part. We have a few cross border communities, for example with Washington, where employees will work in Washington and live in Idaho. We don't expect the number [of] issues to increase dramatically due to the pandemic. If things change and it becomes necessary, we will have to alert the Governor and the Legislature for their consideration." (Email on File with Checkpoint Catalyst, 05/18/2020.)		STC has not addressed this issue and will evaluate each situation on a case-by-case basis."
Illinois	No guidance	Checkpoint surveyed all 50 states, and the Illinois DOR replied that "nexus is a very complex question that must be determined based on individual facts and circumstances, so the Department will not be issuing any guidance related to nexus due to COVID-19." (Email on File with Checkpoint Catalyst, 05/18/2020.)	Illinois if employee is telecommuting from there for more than 30 days	Illinois Department of Revenue issued an informational bulletin that said that "out-of-state employers who normally would not be required to withhold Illinois income tax from employees that are Illinois residents may now be subject to Illinois withholding requirements. Employee compensation is subject to Illinois Income Tax Withholding when the employee has performed normal work duties in Illinois for more than 30 working days. If an Illinois resident employee has performed work for more than 30 working days from their home in Illinois for an

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				out-of-state employer, the employer may be required to register with the Illinois Department of Revenue (IDOR) and withhold Illinois Income Tax from the employee.” <u>Illinois Dept. of Rev. Info. Bulletin No. FY 2020-29, (May 1, 2020).</u>
Indiana	No (for corporate income tax only)	<p>Indiana issued guidance on its Coronavirus Information page that “the Indiana Department of Revenue will not use someone's relocation, that is the direct result of temporary remote work requirements arising from and during the COVID-19 pandemic health crisis, as the basis for establishing Indiana nexus or for exceeding the protections provided by P.L. 86-272 for the employer of the temporary relocated employee.”</p> <p>“The temporary protections provided under this guidance will extend for periods of time where:</p> <ol style="list-style-type: none"> 1. there is an official work from home order issued by an applicable federal, state or local government unit, or 2. pursuant to the order of a physician in relation to the COVID-19 outbreak or due to an actual diagnosis of COVID-19, plus 14 days to allow for return to normal work locations. 		No guidance

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		<p>If the person remains in Indiana after the temporary remote work requirement has ended, nexus may be established for that employer. Likewise, an employer may not assert that solely having a temporarily relocated employee in Indiana under the circumstances described above creates nexus for the business or exceeds the protections of P.L. 86-272 for the employer.” <u>IN DOR, Coronavirus Information</u></p> <p>Checkpoint surveyed all 50 states, and the Indiana DOR replied, "in answer to your question concerning sales tax, we are not currently offering temporary relief from the physical presence standards for determining whether a business must register to collect sales tax in the event that the business has an employee telecommuting from Indiana." (Email on File with Checkpoint Catalyst, 06/04/2020.)</p>		
Iowa	No	<p>The Iowa DOR posted the following FAQ: “Will the presence of employees temporarily telecommuting from within Iowa solely as a result of states of emergency declared in response to COVID-19 establish Iowa income tax nexus for a business that does not otherwise have nexus in this state?</p>	<p>State from where employee is telecommuting (i.e., employee’s home state)</p>	<p>The Iowa DOR posted the following FAQ: “Will Iowa individual income tax filing and withholding requirements change as a result of temporary telecommuting due to COVID-19?</p> <p>No, Iowa individual income tax and withholding requirements have not been modified by the COVID-19 pandemic.</p>

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		No. . . . [W]hile Iowa’s state of emergency in response to COVID-19, or similar declared state of emergency in the state where the worker normally worked prior to the COVID-19 pandemic, remains in effect, the Department will not consider the presence of one or more employees working remotely from within Iowa solely due to the COVID-19 pandemic, by itself, sufficient business activity within the state to establish Iowa corporate income tax nexus. Nor does the Department consider such presence by non-sales employees due to the pandemic sufficient, by itself, to cause a corporation to lose the protections of Public Law 86-272. The position contained in this document only applies to states of emergency declared in response to COVID-19. This position does not extend to other facts and circumstances.” <u>IA DOR, COVID-19</u>		Compensation for personal services rendered within the state of Iowa is subject to Iowa income tax, unless that income is exempted by a specific provision of Iowa law. Nonresidents of Iowa who normally work in Iowa but are temporarily telecommuting in another state, or who normally work outside of Iowa but are temporarily telecommuting in Iowa, may need to adjust their income apportionment or their Iowa income tax return filing requirement.” <u>IA DOR, COVID-19</u>
Kansas	No guidance	Checkpoint surveyed all 50 states, and the Kansas DOR replied that the agency has not issued any guidance. (Email on File with Checkpoint Catalyst, 07/14/2020.)	State from where employee is telecommuting (i.e., employee’s home state) or employee’s regular place of work (i.e., the employer’s home state) for period of March 13, 2020 to December 31, 2022	Kansas S.B. 47 was enacted, and it allows employers to continue to have the option of how to withhold for teleworking employees. It provides: “For the period of January 1, 2021, through December 31, 2022, for wages paid to employees who are temporarily teleworking in a state other than their primary work location, employers shall have the option to continue to withhold income taxes based on the state of the employee's primary work

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				<p>location and not based on the state in which the employee is teleworking or otherwise working during the COVID-19 pandemic.” <u>KS S.B. 47</u></p> <p>Kansas Governor Laura Kelly issued an executive order which provides that “For the period of March 13, 2020, through December 31, 2020, inclusive, for wages paid to employees who are temporarily teleworking in a state other than their primary work location, employers shall have the option to continue to withhold income taxes based on the state of the employee's primary work location and not based on the state in which the employee is teleworking or otherwise working during the pandemic. Any provisions of K.S.A. 79-3296 in conflict with the provisions of this paragraph are hereby suspended. On and after January 1, 2021, employers shall comply with K.S.A. 79-3296 and make all necessary adjustments to withhold from wages whenever the wage recipient is a Kansas resident or the wages are paid on account of personal service performed in Kansas.” <u>Executive Order 21-01, Kansas Governor Laura Kelly (Jan. 26, 2021)</u></p> <p>This order was reissued on April 1, 20201. <u>Executive Order 21-18, Kansas Governor Laura Kelly (April 1, 2021)</u></p> <p>The Kansas DOR issue the following FAQs about withholding:</p>

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				<p>“Are the wages I pay to employees in Kansas for ‘remote working’ or ‘teleworking’ subject to Kansas withholding?”</p> <p>Yes. Any time an employee is performing services for an employer in Kansas, those wages are subject to Kansas withholding. This applies in the case of an employee ‘remotely working’ or ‘teleworking’ in Kansas for an employer located outside the state of Kansas.”</p> <p>“In recognition of the changes in business operations of many employers caused by the Covid-19 pandemic, the Kansas Department of Revenue will waive any applicable penalties for employers and employees associated with the under-withholding and underpayment of individual estimated tax for all employees required to work remotely due to the pandemic. The waiver provided herein shall be effective for the period of time in calendar year 2020 that Governor Laura Kelly’s Declaration of Disaster Emergency Decree remained in effect.”</p> <p><u>KS DOR, Frequently Asked Questions About Withholding</u></p>
Kentucky	No guidance	The Kentucky DOR posted the following question and answer in its FAQs: “Does the presence of an employee working in Kentucky or any local jurisdiction due to	State from where employee is telecommuting (i.e., employee’s home state)	The Kentucky DOR posted the following questions and answers in its FAQs: “Can a business continue to withhold income tax in the state and local jurisdiction where the employer is located?”

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		<p>restrictions related to the COVID-19 public health emergency create a nexus for tax purposes in Kentucky or any local jurisdiction?</p> <p>The Kentucky Department of Revenue (DOR) does not administer license, occupational, or other excise taxes imposed by cities, counties, and other local jurisdictions in this state. DOR will continue reviewing Kentucky state income tax nexus determinations on a case-by-case basis.” <u>KY DOR, COVID-19 Tax Relief: Frequently Asked Questions</u></p>		<p>... For Kentucky state income tax purposes, employers employing Kentucky residents, and/or nonresidents who reside in states with which Kentucky has a reciprocal agreement, will not need to change their current withholding practices during the period when these employees are working from home. Requirements for withholding of tax in either case remain unchanged by restrictions related to the COVID-19 public health emergency.”</p> <p>“Can an employee who is temporarily telecommuting continue to pay taxes to the state and local jurisdiction where the employer is located? ... For Kentucky state income tax purposes, employers employing Kentucky residents and/or nonresidents who reside in states with which Kentucky has a reciprocal agreement will not need to change their current withholding practices during the period when these employees are working from home. These employees’ Kentucky state income tax obligations remain unchanged by restrictions related to the COVID-19 public health emergency.” <u>KY DOR, COVID-19 Tax Relief: Frequently Asked Questions</u></p>
Louisiana	No (for corporate income purposes only)	Checkpoint surveyed all 50 states, and the Louisiana DOR replied that it plans to issue a revenue ruling establishing that an employee’s temporary relocation due to "remote work requirements which are		No guidance

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		imposed solely as a response to the COVID-19 public health emergency will not be used, on its own, as the basis for establishing nexus with Louisiana or for exceeding the protections imposed by P.L. 86-272 for the employer of the employee." Compensation received by "individuals for services rendered in a location which is different than an employee's ordinary work location and which relocation is due to temporary remote work requirements imposed solely as a response to the COVID-19 public health emergency" is sourced to "the employee's ordinary work location." However, this ruling will not apply for sales and use tax purposes. (Email on File with Checkpoint Catalyst, 05/20/2020.)		
Maine	No (for corporate and sales and use tax	Corporate Tax Nexus Maine issued guidance that: "For employers, in the period January through June 2021 with respect to a tax year that begins in 2021, MRS will not consider the presence of one or more employees in Maine, who commenced working remotely from Maine during the state of emergency and due to the COVID-19 pandemic, to establish, by itself, corporate income tax nexus." <u>Maine Taxpayer Guide For the 2021 Filing Season</u>	Employee's regular place of work (i.e., the employer's home state)	<p>Maine Revenue Services issued a notice which stated that "For employers, Maine income tax withholding for wages paid through June 30, 2021 to a Maine resident suddenly teleworking in Maine due to a state's COVID-19 state of emergency, will continue to be calculated as if the Maine resident were still working outside Maine." <u>Maine Taxpayer Guide For the 2021 Filing Season</u></p> <p>Maine issued a Tax Alert that states that "Maine income tax withholding for wages paid in 2020 to a Maine resident suddenly working in Maine due to a</p>

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		<p>Maine issued a Tax Alert that provided: “For tax years beginning in 2020, MRS will not consider the presence of one or more employees in this State, who commenced working remotely from Maine during the state of emergency and due to the COVID-19 pandemic, to establish, by itself, corporate income tax nexus.” <u>Maine Tax Alert #2, October 2020</u></p> <p>Sales Tax Nexus Maine Revenue Services issued a notice which stated: “Previously, in the October 2020 - #2 Maine Tax Alert, MRS announced that for sales occurring in 2020, MRS will not consider the presence of one or more employees in this State, who commenced working remotely from Maine during the state of emergency and due to the COVID-19 pandemic, to constitute substantial physical presence in this State for sales and use tax registration and collection duty purposes. This exclusion from the physical presence test has been extended to sales occurring in 2021.” <u>Maine Tax Alert #3, February 2021</u></p> <p>Maine issued a Tax Alert that provided:</p>		<p>state’s COVID-19 state of emergency, will continue to be calculated as if the Maine resident were still working outside the State.” In addition, “[f]or tax years beginning in 2020, the Mills Administration will introduce legislation in January to ensure Maine residents avoid double taxation as a result of COVID-19 related telework by allowing the tax credit for income tax paid to other jurisdictions if another jurisdiction is asserting an income tax obligation for the same income despite the employee no longer physically working in that jurisdiction due to COVID-19.” <u>Maine Tax Alert #2, October 2020</u></p>

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		<p>“For sales occurring in 2020, MRS will not consider the presence of one or more employees in this State, who commenced working remotely from Maine during the state of emergency and due to the COVID-19 pandemic, to constitute substantial physical presence in this State for sales and use tax registration and collection duty purposes.” <u>Maine Tax Alert #2, October 2020</u></p>		
Maryland	No	<p>Maryland issued a Tax Alert that stated that “the Comptroller’s Office does not intend to change or alter the facts and circumstances it has consistently used to determine nexus or income sourcing. . . . Consequently, the Office will recognize the temporary nature of a business’ interim workplace model and employee deployment in light of and during the current health emergency and will not use these temporary measures to impose business nexus, to alter the sourcing of business income, or to impose additional withholding requirements on the employer.” <u>Comptroller of MD, Tax Alert 5-04-20</u></p> <p>In addition, in Maryland, nexus is generally created by maintaining a business location in the state. “A residence of an employee or representative is not ordinarily considered a</p>	State from where employee is telecommuting (i.e., employee’s home state)	<p>Maryland issued a Tax Alert that stated that “Maryland employer withholding requirements are not affected by the current shift from working on the employer’s premises to teleworking because taxability is determined by the employee’s physical presence. Generally, Maryland imposes income tax, and therefore a withholding requirement on employers, for employees domiciled in Maryland, statutory residents of Maryland, and non-residents receiving Maryland-sourced income. . . . Compensation paid to a Maryland nonresident who is teleworking in Maryland is Maryland-sourced income, and therefore, subject to withholding.” <u>Comptroller of MD, Tax Alert 5-04-20</u></p>

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		<p>‘business location’ of the employer unless the facts indicate otherwise.” Occasional or isolated use of the residence “will not normally cause the residence to be considered as a business location.” MD Admin. Release No. 2, Sept. 1, 2009</p> <p>Checkpoint surveyed all 50 states, and the Maryland Comptroller's Office replied that "if the seller’s only presence in the state is an employee or employees working temporarily in Maryland during the COVID-19 pandemic and their sales into Maryland are below the statutory threshold, the presence of the employee or employees will not result in sales tax nexus." (Email on File with Checkpoint Catalyst, 05/20/2020.)</p>		
Massachusetts	No (for corporate and sales and use tax purposes)	Massachusetts has issued an updated technical information release which superseded TIR 20-10, and made the following rules effective “until 90 days after the state of emergency in Massachusetts is lifted. As of that date, the rules set forth in this TIR will cease to be in effect and the presence of an employee in Massachusetts, even if due solely to a Pandemic-Related Circumstance (as defined below), will trigger the same tax consequences as under	Employee’s regular place of work (i.e., the employer’s home state)	Massachusetts adopted a final version of the previous emergency regulation which now says “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 is performing services from a location outside Massachusetts due to a Pandemic-Related Circumstance will continue to be treated as Massachusetts source income subject to personal income tax . . . and personal income tax withholding.” A tax credit will be available under

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		<p>Massachusetts law more generally.” The release provided that:</p> <p>Corporate Tax “During the period that the rules in this TIR remain in effect, the Department will not consider the presence of one or more employees working remotely from Massachusetts solely due to a Pandemic-Related Circumstance, including the presence of business property reasonably needed for such persons’ use while working remotely, to be sufficient in and of itself to establish corporate nexus. In addition, such presence will not, of itself, cause a corporation to lose the protections of Public Law 86-272. Relatedly, for corporate apportionment purposes, (1) services performed by such persons in Massachusetts will not increase the numerator of the employer’s payroll factor, and (2) the presence in Massachusetts of business property reasonably needed for such persons’ use while working remotely will not increase the numerator of the employer’s property factor.”</p> <p>Sales Tax “During the period that the rules in this TIR remain in effect, the presence of one or more</p>		<p>M.G.L. c. 62, section 6(a) for resident employees who worked in another state but are now required to work in Massachusetts because of the pandemic if they continue to incur an income tax liability under the sourcing rules of the state where they previously worked. “[T]he employer of such employee is not obligated to withhold Massachusetts income tax to the extent the employer remains required to withhold income tax with respect to the employee in such other state.” “A non-resident employee who, prior to the Massachusetts COVID-19 state of emergency, determined Massachusetts source income by apportioning based on days spent working in Massachusetts in accordance with 830 CMR 62.5A.1(5)(a), must continue to do so based on (1) the percentage of the employee’s 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 the employee worked for the same employer in 2019, the apportionment percentage properly used to determine the portion of employee wages constituting Massachusetts source income on the employee’s 2019 return.” The regulation applies to the sourcing of wage income attributable to services performed commencing March 10, 2020 through the earlier of December 31, 2020, or 90 days after the date on which the Governor gives notice that the Massachusetts COVID-19 state of emergency is no longer in effect. <u>830 CMR 62.5A.3</u></p>

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		employees working remotely from Massachusetts, due solely to a Pandemic-Related Circumstance, will not in and of itself trigger nexus for sales and use tax collection purposes.” <u>Mass. DOR, TIR 20-15, Dec. 8, 2020</u>		Simultaneous with the issuance of TIR 20-15, the DOR “has extended emergency regulation 830 CMR 62.5A.3: Massachusetts Source Income of Non-Residents Telecommuting due to the COVID-19 Pandemic, . . . Pursuant to the regulation as extended, until 90 days after the state of emergency in Massachusetts is lifted, 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 began performing services from a location outside Massachusetts due to a Pandemic-Related Circumstance, will continue to be treated as Massachusetts source income subject to personal income tax under M.G.L. c. 62 and personal income tax withholding.” <u>Mass. DOR, TIR 20-15, Dec. 8, 2020</u>
Michigan	Yes	Checkpoint surveyed all 50 states, and the Michigan Department of Treasury replied that "the state of Michigan is not waiving nexus requirements due to virus-related telecommuting at this time. For the latest tax related updates, please continue to check the state Treasury Department’s COVID-19 website." (Email on File with Checkpoint Catalyst, 05/19/2020.)		Per informal email from Tax Policy Division, if a Michigan resident works remotely for a New York employer and that state taxes the wages, Michigan will give the resident a credit against the tax. (Email on File with Hodgson Russ, 3/5/2021)

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Minnesota	No (for corporate or sales and use tax purposes)	The Minnesota DOR posted to its FAQ's that "The department will not seek to establish nexus for business income tax or sales and use tax solely because an employee is temporarily working from home due to the COVID-19 pandemic." <u>MN DOR, COVID-19 FAQs for Businesses</u>	State from where employee is telecommuting (i.e., employee's home state)	The Minnesota DOR posted to its FAQ's the follow question and answer: "I'm temporarily telecommuting due to COVID-19. Will my Minnesota Individual Income Tax filing requirement for tax year 2020 be affected? It depends if you're a Minnesota resident, part-year resident, or nonresident. Nonresidents or part-year residents: You may need to apportion your income based on the number of days you work from home. Nonresidents need to divide the number of days worked in Minnesota by the total number of days worked." <u>MN DOR, COVID-19 FAQs for Individuals</u>
Mississippi	No	The Department issued guidance that "Mississippi will not use any changes in the employees temporary work locations due to the pandemic to impose nexus or alter apportionment of income for any business while temporary telework requirements are in place." <u>Miss. DOR, Press Release, Mar. 26, 2020</u>	Employee's regular place of work (i.e., the employer's home state)	The Department issued guidance that "Mississippi will not change withholding requirements for businesses based on the employee's temporary telework location. Mississippi residents are taxable on their total income, regardless of where they work. However, we will not impose any new withholding requirements on the employer." <u>Miss. DOR, Press Release, Mar. 26, 2020</u>
Missouri	No guidance		State from where employee is telecommuting (i.e., employee's home state) or, for certain employers, employee's regular	The Missouri DOR issued a temporary rule that only applies to employers who did not maintain a time and attendance systems for all employees on or before March 13, 2020 and either (1) have a primary

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			place of work (i.e., the employer's home state) if elected	<p>work location in MO and employees working temporarily outside of the state or (2) have a primary work location outside of MO and employees temporarily working in the state. Under the rule, for services performed by an employee after March 13, 2020 and "prior to the earlier of the time at which an employer began withholding based on a time and attendance system for such employee or the end of the COVID-19 relief period those employers may elect to withhold income tax from wages paid to such employee as if such wages were earned from work performed at the employee's primary work location, despite such employee working from a temporary work location during the COVID-19 relief period." This rule is effective on January 21, 2021 and expires on July 19, 2021. <u>12 CSR 10-2.019</u></p> <p>The Missouri DOR presented at the Missouri Bar Taxation Committee annual meeting, and the presentation included the following frequently asked question and answer: "Are the wages I pay to employees in Missouri for 'remote work' subject to Missouri withholding? Yes. Withholding obligations are determined by the state where the employee performs services for the employer in exchange for wages. This is the case whether the employee is performing services at the employer's work location or from the employee's home." (PowerPoint on File with Hodgson Russ, 11/19/2020.)</p>

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				<p>This was confirmed in recently issued guidance by the Missouri DOR which included the following FAQ: “Are the wages I pay to employees in Missouri for ‘remote work’ subject to Missouri withholding?</p> <p>Yes. Any time an employee is performing services for an employer in exchange for wages in Missouri, those wages are subject to Missouri withholding. This applies in the case of ‘remote work’ where an employee is located in Missouri and performs services for the employer on a remote basis.</p> <p>This rule also applies even if the service for which the employee is receiving wages is ‘standing down’ (i.e., when the employer instructs the employee not to work but the employee is still being paid).” <u>MO DOR, Remote Work Resources</u></p>
Montana	Yes	Checkpoint surveyed all 50 states, and the Montana DOR Revenue replied: "Regarding COVID-19 and employees temporarily or permanently working in this state, there are no Montana changes for corporate income tax nexus." (Email on File with Checkpoint Catalyst, 05/19/2020.)	State from where employee is telecommuting (i.e., employee’s home state)	The Montana DOR issued a special message “for anyone who lived in Montana for any time in 2020 and worked at their jobs remotely, including those who temporarily relocated due to the COVID-19 pandemic: You must pay Montana state income tax on any wages received for work performed while in Montana, even if your job is normally based in another state.” <u>MT DOR, A Special Message for Remote Workers in Montana</u>

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Nebraska	Yes	Checkpoint surveyed all 50 states, and the Nebraska DOR replied that the agency "has not made any changes reflecting a different position" for income tax or sales and use tax nexus "due to COVID-19." (Email on File with Checkpoint Catalyst, 06/02/2020.)	Employee's regular place of work (i.e., the employer's home state)	<p>The Nebraska DOR posted the following FAQ: "Do employers/payors need to change how they report or remit income tax withholding for employees who were working onsite before the COVID-19 pandemic, but who are now temporarily working from an alternate site, including from home, to remain safe?"</p> <p>No. DOR will not require employers to change the state which was previously established in their payroll systems for income tax withholding purposes for employees who are now telecommuting or temporarily relocated to a work location within or outside Nebraska due to the COVID-19 pandemic. A change in work location is not required beginning with the date the emergency was declared, March 13, 2020, and ending on January 1, 2021, unless the emergency is extended." <u>NE DOR, Frequently Asked Questions about the Income Tax Changes Due to the COVID-19 National Emergency</u></p>
Nevada	No guidance			No state income tax
New Hampshire	No guidance	Checkpoint surveyed all 50 states, and the New Hampshire Department of Revenue replied that it "does not have a position on this question to share with you at this time." (Email on File with Checkpoint Catalyst, 05/19/2020.)		No state income tax

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New Jersey	No (for corporate and sales and use tax purposes)	<p>The Division of Taxation posted on its website that:</p> <p>Corporate Tax: “As a result of COVID-19 causing people to work from home as a matter of public health, safety, and welfare, the Division will temporarily waive the impact of the legal threshold within N.J.S.A. 54:10A-2 and N.J.A.C. 18:7-1.9(a) which treats the presence of employees working from their homes in New Jersey as sufficient nexus for out-of-state corporations. In the event that employees are working from home solely as a result of closures due to the coronavirus outbreak and/or the employer's social distancing policy, no threshold will be considered to have been met.” <u>NJ Div. of Tax., Businesses</u></p> <p>Sales Tax: “As a result of the COVID-19 pandemic, several employees have been required to work from their New Jersey home. The Division will temporarily waive the Sales Tax nexus standard which is generally met if an out-of-State seller has an employee working in this State. Thus, as long as the out-of-State seller did not maintain any physical presence other than employees</p>	<p>The employer’s home state’s rules dictate which state gets the tax (i.e. NJ employer with nonresident employee working from home, withholding based on NJ rule of sourcing to where work is performed)</p>	<p>The Division of Taxation posted on its website the following question and answer: “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?”</p> <p>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.</p> <p>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?</p>

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		working from home in New Jersey and is below the economic thresholds the Division will not consider the out-of-State seller to have nexus for Sales Tax purposes during this time period.” <u>NJ Div. of Tax., Telecommuter COVID-19 Employer and Employee FAQ</u>		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.” <u>NJ Div. of Tax., Telecommuter COVID-19 Employer and Employee FAQ</u>
New Mexico	No guidance			Checkpoint was informed by a spokesman that the New Mexico Taxation and Revenue Department is not currently addressing this issue.
New York	No guidance		Employee’s regular place of work (i.e., the employer’s home state)	<p>The Department of Taxation and Finance posted on its website the following response to FAQs: “My primary office is inside New York State, but I am telecommuting from outside of the state due to the COVID-19 pandemic. Do I owe New York taxes on the income I earn while telecommuting?”</p> <p>If you are a nonresident whose primary office is in New York State, your days telecommuting during the pandemic are considered days worked in the state unless your employer has established a bona fide employer office at your telecommuting location. There are a number of factors that determine whether your employer has established a bona fide employer office at your telecommuting location. In general, unless your employer specifically acted to establish a bona fide employer office at your telecommuting</p>

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				<p>location, you will continue to owe New York State income tax on income earned while telecommuting.”</p> <p>“If I live in New York but work in another state, am I taxed twice?</p> <p>A person who lives in one state but works in another may have tax liability in both states, but typically will receive a tax credit in their state of residence to eliminate double taxation of that income. If you were a full-year or part-year resident of New York State and you had income sourced to and taxed by another state you may claim a nonrefundable resident credit against your New York State tax. This credit is allowable only for the portion of the tax that applies to income sourced to and taxed by the other taxing authority while you were a New York State resident.” <u>N.Y. Dept. of Tax. & Finance, Frequently Asked Questions about Filing Requirements, Residency, and Telecommuting for New York State Personal Income Tax</u></p>
North Carolina	No guidance			No guidance
North Dakota	No (for corporate income tax purposes)	The state issued guidance saying “if the telecommuting is attributable to a COVID related response and is intended to be temporary, North Dakota will not assert income tax nexus on that basis alone” In addition “If the telecommuting is		No guidance

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		attributable to a COVID related response and is intended to be temporary, North Dakota will not require inclusion of that payroll in the numerator of the payroll factor.” <u>ND Tax, COVID-19 Taxpayer Guidance</u>		
Ohio	Yes	Checkpoint surveyed all 50 states, and the Ohio DOR replied that "under current law, the Department does not have the authority to waive nexus" for commercial activity tax purposes or sales and use tax purposes "for companies with employees temporarily working in Ohio due to the COVID-19 pandemic." (Email on File with Checkpoint Catalyst, 05/19/2020.)	Employee’s regular place of work (i.e., the employer’s home state) for municipal income taxes	Ohio passed new legislation which provides that for the purposes of its municipal income taxes “during the period of the emergency declared by Executive Order 2020-01D, issued on March 9, 2020, and for thirty days after the conclusion of that period, any day on which an employee performs personal services at a location, including the employee's home, to which the employee is required to report for employment duties because of the declaration shall be deemed to be a day performing personal services at the employee's principal place of work.” <u>Ohio, HB 197 (2020)</u> . Ohio has not released any guidance for state income taxes.
Oklahoma	No (for corporate income tax purposes or sales and use tax)	Checkpoint surveyed all 50 states, and the Oklahoma Tax Commission replied that "corporate income tax nexus is not created if the only activity a corporation has in Oklahoma is an employee temporarily working remotely from home in Oklahoma while the usual work location is closed due to COVID19." In addition, "businesses, not already obligated to collect and remit		Checkpoint received information from the Oklahoma Tax Commission that it has not addressed this issue or released guidance.

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		Oklahoma sales/use tax, whose sole activity in the state is an employee temporarily working remotely from home in Oklahoma because of dislocation due to COVID19 would not be required to register with Oklahoma for purposes of collection of its sales/use tax." (Email on File with Checkpoint Catalyst, 6/2/2020.)		
Oregon	No (for corporate income tax purposes)	<p>The Oregon DOR posted on its website that:” For purposes of Oregon corporate excise/income tax or personal income tax, the presence in Oregon of teleworking employees of an employer corporation will not be treated by the department as a relevant factor when making a nexus determination, if the employee(s) in question would otherwise have been, absent the COVID-19 pandemic, regularly based outside Oregon between March 8, 2020, and the expiration of this notice.</p> <p>This notice expires at the later of:</p> <ol style="list-style-type: none"> 1. The expiration date of Oregon Executive Order 20-67. 2. The date of expiry of an emergency declaration, a stay at home or similar government order related to COVID-19 and issued by the state government for the employee’s assigned work location. 	State from where employee is telecommuting (i.e., employee’s home state)	<p>A spokesperson for the Oregon Department of Revenue informed Checkpoint “that there are no changes to Oregon sourcing rules despite more employees teleworking. Oregon residents are taxed on all income regardless of where earned. So, whether an Oregon resident is teleworking in Oregon or Washington, the wages are taxable for Oregon purposes. If the employee is teleworking in another state, Oregon taxes would not be withheld. If the employee teleworks from home in Washington, the wages aren't taxable for Oregon purposes. Additionally, the threshold for taxability is a dollar amount based on the sum of the standard deduction amount for the employee's filing status and exemption credit(s) claimed. Nexus with Oregon is created by physically being in the state.”</p>

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		3. December 31, 2021.” <u>OR DOR, COVID-19 Tax Relief Options</u>		
Pennsylvania	No (for corporate and sales and use tax purposes)	The Pennsylvania DOR posted on its website that “As a result of the COVID-19 pandemic causing people to temporarily work from home, the department will not seek to impose Corporate Net Income Tax (CNIT) nexus or Sales and Use Tax (SUT) nexus solely on the basis of this temporary activity.” This is in effect until the earlier of June 30, 2021 or 90 days after the Proclamation of Disaster Emergency in Pennsylvania is lifted. <u>PA Dept. of Rev, Telework During the COVID-19 Pandemic</u>	Employee’s regular place of work (i.e., the employer’s home state)	The Pennsylvania DOR posted on its website “if an employee is working from home temporarily due to the COVID-19 pandemic, the department does not consider that as a change to the sourcing of the employee’s compensation. For non-residents who were working in Pennsylvania before the pandemic, their compensation would remain Pennsylvania sourced income for all tax purposes, including PA-40 reporting, employer withholding and three-factor business income apportionment purposes for S Corporations, partnerships and individuals. Conversely, for Pennsylvania residents who were working out-of-state before the pandemic, their compensation would remain sourced to the other state and they would still be able to claim a resident credit for tax paid to the other state on the compensation.” Pennsylvania employers with non-resident employees temporarily working from home in a state that doesn’t have a reciprocity agreement with Pennsylvania are directed to withhold on the compensation. This is in effect until the earlier of June 30, 2021 or 90 days after the Proclamation of Disaster Emergency in Pennsylvania is lifted. <u>PA Dept. of Rev, Telework During the COVID-19 Pandemic</u>

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Rhode Island	No (for corporate and sales and use tax purposes)	<p>The RI DOR issued the following guidance:</p> <p>Corporate Income Tax: “For the duration of Rhode Island’s coronavirus state of emergency, the Rhode Island Division of Taxation will not seek to establish nexus for Rhode Island corporate income tax purposes solely because an employee is temporarily working from home during the state of emergency, or because an employee is temporarily working from home during the state of emergency and is using property to allow the employee to work from home (e.g., computers, computer equipment, or similar property) temporarily during the state of emergency. Put another way, the presence of one or more employees that previously worked in another state but, solely due to the state of emergency, are working remotely from Rhode Island, will not in and of itself trigger nexus for Rhode Island corporate income tax purposes.”</p> <p>Sales Tax: “For the duration of Rhode Island’s coronavirus state of emergency, the Rhode Island Division of Taxation will not seek to establish nexus for Rhode Island sales and use tax purposes solely because an employee is temporarily working from home during</p>	Employee’s regular place of work (i.e., the employer’s home state)	<p>The RI issued the following guidance related to the emergency regulation 280-RICR-20-55-14: “Under the emergency regulation, the income of employees who are nonresidents temporarily working outside of Rhode Island solely due to the pandemic will continue to be treated as Rhode Island-source income for Rhode Island withholding tax purposes. Example: A Massachusetts resident works for a Rhode Island employer, normally performs his tasks within Rhode Island, and has wages that are subject to Rhode Island income tax withholding. If the employee is temporarily working within Massachusetts due to the pandemic, the employer should continue to withhold Rhode Island income tax because the employee’s work is derived from or connected to a Rhode Island source.</p> <p>Another part of the guidance involves Rhode Island residents who are employed by an employer outside of Rhode Island, and normally work outside of Rhode Island, but who are temporarily working remotely in Rhode Island. Under the emergency regulation, Rhode Island will not require employers located outside of Rhode Island to withhold Rhode Island income taxes from the wages of employees who are Rhode Island residents temporarily working within Rhode Island solely due to the pandemic.</p>

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		<p>the state of emergency, or because an employee is temporarily working from home during the state of emergency and is using property to allow the employee to work from home (e.g., computers, computer equipment, or similar property) temporarily during the state of emergency. Put another way, the presence of one or more employees that previously worked in another state but, solely due to the state of emergency, are working remotely from Rhode Island, will not in and of itself trigger nexus for Rhode Island sales and use tax purposes.” <u>RI DOR, ADV 2020-24 (May 28, 2020)</u></p>		<p>Example: A Rhode Island resident works for an employer in Connecticut, normally performs her tasks within Connecticut, and has wages that are subject to Connecticut income tax withholding. If the employee is temporarily working within Rhode Island solely due to the pandemic, the employer will not be required by Rhode Island to withhold Rhode Island income taxes from that employee’s wages for the duration of the emergency.”</p> <p><u>RI DOR, ADV 2020-22 (May 26, 2020)</u></p> <p>Rhode Island has extended its emergency regulation, 280-RICR-20-55-14, by 60 days to January 18, 2021.</p> <p>Rhode Island has extended its emergency regulation, 280-RICR-20-55-14, by 60 days to March 19, 2021.</p> <p>Rhode Island has extended its emergency regulation, 280-RICR-20-55-14, by 60 days to May 18, 2021.</p> <p>Rhode Island has extended its emergency regulation, 280-RICR-20-55-14, by 60 days to July 17, 2021.</p>
South Carolina	No (for corporate and sales and use tax purposes)	The SC DOR released an information that said, “the Department will not use changes solely in an employee’s temporary work location due to the remote work requirements arising from, or during, the COVID-19 relief period (March 13, 2020 –	Employee’s regular place of work (i.e., the employer’s home state)	<p>The SC DOR issued an information letter on withholding for resident and nonresident employees and businesses:</p> <p>“South Carolina Withholding Requirements - Tax Relief Period</p>

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		<p>September 30, 2020) as a basis for establishing nexus or altering apportionment of income.” <u>SC DOR, Information Letter #20-11 (May 15, 2020)</u></p> <p>The SC DOR released a subsequent information letter which extended the relief in the above information letter until December 31, 2020. <u>SC DOR, Information Letter #20-24 (Aug. 26, 2020)</u></p> <p>The SC DOR released a subsequent information letter which extended the relief in the above information letter until June 30, 2021. <u>SC DOR, Information Letter #20-29 (Nov. 30, 2020)</u></p> <p>The SC DOR released a subsequent information letter which extended the relief in the above information letter until September 30, 2021. <u>SC DOR, Information Letter #21-8 (Apr. 7, 2021)</u></p> <p>Checkpoint surveyed all 50 states and received an informal confirmation that this nexus policy extends to the sales and use tax. (Email on File with Checkpoint Catalyst, 06/02/2020.)</p>		<p>Effective from March 13, 2020 through September 30, 2020, South Carolina will not use the temporary change of an employee's work location during the COVID-19 relief period to impose a South Carolina withholding requirement under Code Section 12-8-520, as explained below. This relief does not apply to workers whose status changes from temporary to permanent status during this period.</p> <p>SC Business with Employees Temporarily Changing Work Location to Outside South Carolina South Carolina law requires businesses located in South Carolina to withhold income tax on the wages of residents and nonresidents who are working in South Carolina. During the COVID-19 relief period, a South Carolina business's withholding requirements are not affected by the current shift of employees working on the employer's premises in South Carolina to teleworking from outside of South Carolina. Accordingly, the wages of nonresident employees temporarily working remotely in another state instead of their South Carolina business location are still subject to South Carolina withholding.” <u>SC DOR, Information Letter #20-11 (May 15, 2020)</u></p> <p>This guidance was extended through December 31, 2020. <u>SC DOR, Information Letter #20-14 (Aug. 26, 2020)</u></p>

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				<p>This guidance was extended again through June 30, 2021. <u>SC DOR, Information Letter #20-29 (Nov. 30, 2020)</u></p> <p>This guidance was extended again through September 30, 2021. <u>SC DOR, Information Letter #21-8 (Apr. 7, 2021)</u></p>
South Dakota	Maybe for sales tax	Checkpoint surveyed all 50 states, and the South Dakota DOR replied that the agency "does not offer a blanket waiver of physical presence or nexus for companies that may have an employee working remotely in South Dakota because of the Covid-19 pandemic. However, we understand that there may be instances when it would make sense to do so. The Department looks at each situation on a case by case basis and uses the facts presented to make a determination. If you have a client that has an employee working remotely in South Dakota because of the pandemic, please have them present the facts and a decision can be made based on those facts." (Email on File with Checkpoint Catalyst, 05/20/2020.)		No state income tax
Tennessee	No guidance	Checkpoint surveyed all 50 states, and the Tennessee DOR replied that it "does not have a developed position" on the corporate		No state income tax

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		income or sales and use tax nexus implications of employees temporarily telecommuting due to COVID-19 and "has not received any questions about it from taxpayers." The agency indicated that it "anticipates continuing to update its COVID-19 related guidance available on its webpage as questions arise." (Email on File with Checkpoint Catalyst, 05/22/2020.)		
Texas	No guidance	Checkpoint surveyed all 50 states, and the Texas Comptroller replied, "We are not making a blanket determination. Based on current rules, we will evaluate on a case by case basis." (Email on File with Checkpoint Catalyst, 05/21/2020.)		No state income tax
Utah	Yes	Checkpoint surveyed all 50 states, and the Utah State Tax Commission replied, "There has been no direction from the Utah Legislature that there is or will be a nexus waiver" for corporate or sales and use tax. "That could change should the Utah Legislature make changes in any special legislative session that is called." (Email on File with Checkpoint Catalyst, 05/19/2020.)		Checkpoint received information from a spokesman from the Utah State Tax Commission that that the state has not as yet addressed this issue but "may take it up in an as yet to be scheduled special legislative session."
Vermont	No guidance	Checkpoint surveyed all 50 states, and the Vermont Department of Taxes replied, "We have no intention of changing our audit	Employee's home state	The Vermont Department of Taxes issued guidance that: "If you are a non-resident but you are temporarily living and working in Vermont, you

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		<p>program or focusing audit inquiries to identify workers working temporarily from home during the COVID-19 emergency." (Email on File with Checkpoint Catalyst, 05/19/2020.)</p>		<p>have an obligation to pay Vermont income taxes on the income earned while you were living and performing work in Vermont. This is true even if you were in Vermont due to the COVID-19 pandemic, and regardless of whether your employer is located inside or outside of Vermont.</p> <p>For businesses who have remote workers located in Vermont only on a temporary basis, Vermont will not require that business to change the employee's withholding state. However, businesses and their employees who have temporary remote workers in Vermont may wish to discuss a change to the employee's withholding state if the employee intends to be here for an extended time period, albeit temporarily. Workers who have moved to Vermont permanently and make Vermont their domicile will need to have their withholding location changed."</p> <p><u>VT Dept. of Taxes, Coronavirus (COVID-19) Update: Information For Taxpayers.</u></p> <p>The Vermont Department of Taxes issued the following FAQs:</p> <p>"I have been residing in Vermont for most of 2020, due to the pandemic, but I generally live and work in another state. Am I required to pay income tax on the money that I've earned while I've been in Vermont even though it was paid by my out-of-state employer?</p>

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				<p>Yes. If you were in Vermont for more than two weeks, income earned while in Vermont is subject to income tax in Vermont.”</p> <p>“During “normal” times, I live in (am domiciled in) New Hampshire and drive to Vermont every day for work. Since the beginning of the state of emergency, I am working at my Vermont job remotely from my home in New Hampshire. Do I still need to pay Vermont Income Tax?</p> <p>Prior to the pandemic, you were required to pay Vermont income tax as a nonresident on the income earned in Vermont. Presently, however, given your New Hampshire domicile and your remote worker status, the income you earn while at home is not Vermont income (even though your employer is still located in Vermont) and is not subject to Vermont income tax.”</p> <p>“I usually reside in New York where I work for a New York employer. However, during the pandemic I have resided at my second home in Vermont. Do I have to pay Vermont income tax on the income that I’ve earned while living at my second home in Vermont?</p> <p>Yes, if you are living at your second home in Vermont for more than two weeks the income earned</p>

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				while you are in Vermont is Vermont income.” <u>VT Dept. of Taxes, Income Tax Guidance For Remote or Relocated Workers Due to the COVID-19 Pandemic.</u>
Virginia	Yes	Checkpoint surveyed all 50 states, and the Virginia Department of Taxation replied, "Virginia has not changed its policy with respect to the application" of its corporate income or sales and use tax nexus rules. "Therefore, Virginia's existing rules with respect to nexus continue to apply.... Any information relating to COVID19 relief or changes to Virginia's nexus rules would be published on the Virginia Tax website in the future." (Email on File with Checkpoint Catalyst, 05/20/2020.)		No guidance
Washington	No guidance			No state income tax
West Virginia	No guidance			No guidance
Wisconsin	No (for corporate income tax and sales tax)	Checkpoint surveyed all 50 states, and in response to the question whether the Department would "waive corporate excise tax nexus for companies that do not otherwise have nexus and whose employees are temporarily working in the state due to the COVID-19 pandemic?"—the Wisconsin Department of Revenue replied, " yes." In	State from where employee is telecommuting (i.e., employee’s home state)	The Wisconsin DOR advised that for the duration of the COVID-19 national emergency, “[t]elecommuting employees continue to report their income based on the guidance in the article titled Telecommuting and Mobile Employees on page 13 of Wisconsin Tax Bulletin 171 (April 2011).” <u>WI DOR, Tax Bulletin No. 211, (Nov. 2020).</u> That bulletin instructs that “[a]n employee who is a resident of another state and who telecommutes for a Wisconsin employer would

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		<p>addition, in response to the question whether the Department would "waive corporate sales and use tax nexus for companies that do not otherwise have nexus and whose employees are temporarily working in the state due to the COVID-19 pandemic?"—the Wisconsin Department of Revenue replied, "yes." (Email on File with Checkpoint Catalyst, 05/21/2020.)</p> <p>The Wisconsin DOR issued guidance that, “Wisconsin will not consider an out-of-state business to have nexus in Wisconsin if its only Wisconsin activity is having an employee working temporarily from the employee's home during this national emergency (COVID-19).” This applies for the duration of the national emergency. However, the relevant section of the guidance appears tied to income tax and withholding, and it is unclear whether this guidance extends to sales and use tax nexus. <u>WI DOR, Tax Bulletin No. 211, (Nov. 2020)</u></p>		<p>be subject to income taxation in Wisconsin on the amount earned for the days the employee is present in Wisconsin. . . . For an employee who is a resident of Wisconsin and telecommutes for an out-of-state employer, the employee’s income would be sourced to Wisconsin.” <u>WI DOR, Tax Bulletin No. 171, (April. 2011).</u></p> <p>The Wisconsin DOR also issued a withholding tax update which instructed that, for an employee who previously worked in Wisconsin but is working at home outside of the state due to the pandemic, his or her wages “are not subject to Wisconsin income tax because he or she is not physically present in Wisconsin while performing services.”</p> <p>It also provided the following example “Facts <ul style="list-style-type: none"> • Company D is located in Minnesota • Individual E is a resident of Wisconsin and an employee of Company D • Prior to the national emergency, Individual E commutes daily to work for Company D in Minnesota • During the national emergency, Company D allows Individual E to work from his or her home in Wisconsin. Company D has no other activities in Wisconsin during the national emergency. <p>Wages paid to Individual E prior to the national emergency are subject to Wisconsin income tax because he or she is a resident of Wisconsin. However, Company D is not required to withhold Wisconsin</p> </p>

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				<p>income tax from these wages because of the special withholding arrangement between Wisconsin and Minnesota. More information about this arrangement is located on the department's web site here: https://www.revenue.wi.gov/Pages/TaxPro/2010/news-2010-100120.aspx.</p> <p>Wages paid to Individual E during the national emergency are subject to Wisconsin income tax because he or she is a resident of Wisconsin. However, because Company D is not considered to have nexus in Wisconsin during the national emergency (COVID-19), it is not required to withhold Wisconsin income tax from Individual E's wages. Company D may withhold Wisconsin income taxes from Individual E's wages.” <u>WI DOR, Withholding Tax Update, (Nov 2020).</u></p>
Wyoming	No guidance			No state income tax