



Rhode Island Department of Revenue

Division of Taxation

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TAX ADMINISTRATION

ADVISORY FOR TAX PROFESSIONALS
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Withholding-tax guidance – emergency regulation extended

For employers that have employees temporarily working remotely amid pandemic

PROVIDENCE, R.I. -- The Rhode Island Division of Taxation has extended an emergency regulation that provides withholding-tax guidance for employers that have employees who are temporarily working remotely due to the coronavirus (COVID-19) pandemic.

The emergency regulation was originally posted May 26, 2020. It was to have expired May 18, 2021. However, the Division has extended the emergency regulation to July 17, 2021.

To view the emergency regulation, 280-RICR-20-55-14 (“Withholding for Employees Working Remotely During the COVID-19 State of Emergency”):
<https://rules.sos.ri.gov/regulations/part/280-20-55-14>.

Background

In Rhode Island and other states, employers withhold state taxes from the wages of their employees who work within the employer’s state’s boundaries.

However, due to the pandemic, many employees are working from home (telecommuting, or teleworking). They receive wages for work performed on behalf of their employers -- but their work is performed at locations outside the state where their regular workstations were previously located.

Confusion, extra costs, and concerns may arise among both employers and employees if employers have to withhold and remit out-of-state taxes for employees who are temporarily working remotely outside the state where their employer is located.

Therefore, the Division of Taxation last year posted its emergency regulation that temporarily simplifies the tax withholding process with regard to remote working. The Division has now extended that emergency regulation to July 17, 2021. “The intention of this guidance is to promote stability and avoid further confusion in the marketplace and reduce administrative burdens on public and private employers,” said Rhode Island Tax Administrator Neena Savage.

Guidance

Part of the guidance involves nonresidents who are employed by a Rhode Island employer and normally work in Rhode Island, but who are temporarily working outside of Rhode Island due to the pandemic.

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.

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.

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.

For more details, including definitions, citations, and other information, use the following address: <https://rules.sos.ri.gov/regulations/part/280-20-55-14>.

To view the original Advisory from 2020: http://www.tax.ri.gov/Advisory/ADV_2020_22.pdf. To view a related Advisory from 2020: http://www.tax.ri.gov/Advisory/ADV_2020_24.pdf.

Additional example

The Division provides the following example as an additional aide to employers and employees.

Example: A Massachusetts resident is employed on a full-time basis by a company in Rhode Island.

- Prior to pandemic: Prior to the pandemic, he worked three days a week in person at the company's office in Rhode Island. The other two days a week, he worked remotely from his home in Massachusetts. For state tax withholding purposes, the employer withheld from his paycheck Rhode Island personal income tax and Massachusetts personal income tax. In order to prepare his Rhode Island nonresident and Massachusetts resident personal income tax returns, the employee completed a "number of days" calculation to show how much he earned in Rhode Island and how much he earned in Massachusetts.
- Amid the pandemic: Once the pandemic took hold, he began working remotely, all five days a week, from his home in Massachusetts. For state tax withholding purposes, the employer should continue to withhold from his paycheck Rhode Island personal income tax and Massachusetts personal income tax. In order to prepare his Rhode Island nonresident and Massachusetts resident personal income tax returns, the employee should continue to

perform a “number of days” calculation to continue to allocate income in each state in accordance with his pre-pandemic arrangement with his employer.

The example above shows that the employer’s obligation is unchanged: to properly report, to the Division, the employee’s wages and withholding. The example also shows that the employee should continue to perform the “number of days” calculation in accordance with the employee’s pre-pandemic work arrangement to determine how to allocate his earnings for state tax purposes.

As a convenience for employers and their advisors, the Division includes the following links that provide information from neighboring states:

- The Massachusetts Department of Revenue website:
<https://www.mass.gov/orgs/massachusetts-department-of-revenue>
- The Connecticut Department of Revenue Services website:
<https://portal.ct.gov/drs>

The Rhode Island Division of Taxation is open to the public from 8:30 a.m. to 3:30 p.m. business days. For more information, contact the Division of Taxation at (401) 574-8829 or see <http://www.tax.ri.gov/contact>
