

Qtax, LLC

Massachusetts to tax NH residents telecommuting due to COVID-19

On October 16, 2020 the State of Massachusetts finalized rule 830-CMR-62.5a-3 <https://www.mass.gov/regulations/830-CMR-625a3-massachusetts-source-income-of-non-residents-telecommuting-due-to-the>. In my words the rule says, if you worked for a MA company in MA, but were forced to work from home (telecommute) due to COVID-19 the Commonwealth wants you to pay income tax as if you had been present in Massachusetts.

On October 19, 2020, Governor Sununu sued the Commonwealth in the US Supreme Court over this rule. Following are links to articles.

<https://www.bostonherald.com/2020/10/16/gov-chris-sununu-plans-to-sue-massachusetts-over-policy-taxing-n-h-telecommuters/>

<https://www.bizjournals.com/boston/news/2020/10/16/new-hampshire-vows-to-sue-mass-over-taxes-for-rem.html>

<https://news.yahoo.com/hampshire-sue-massachusetts-over-remote-175601546.html>

Massachusetts has not replied to the suit and the Supreme Court has not agreed to accept the case.

NOTE, this new rule does NOT apply to those people who were allocating their days prior to the shutdown, they may still allocate their days. My most important client, my wife, is one of those in that boat. Additionally, if a taxpayer started working a split schedule (for example 1 day at home in NH, 4 days in MA) during 2020 they can allocate those days. I have an “information letter” from Massachusetts stating the same. Documentation of days out of MA is going to be critical this year.

My advice is that we prepare your MA return under the new rules. If you have a balance due, we file, you pay, and we amend if the rule is overturned. If you have a refund, we hold off filing until the case is decided.

PLEASE!!! Contact me if you have questions, and please refer your friends and colleagues if they would like help with this issue.

Happy Holidays to all