

THE LATEST FROM



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**The Work Week  
with Bassford Remele**

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Welcome to another edition of *The Work Week with Bassford Remele*. Each Monday morning, we will publish and send a new article to your inbox to hopefully assist you in jumpstarting your work week.

[Bassford Remele Employment Practice Group](#)

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**The Reemerging Tax Consequences of Remote Work**

[Pegga Navab](#)

April 18 is not the only tax event on the horizon. Employers will soon again need to deal with tax withholdings for remote workers living in other states.

Last week, President Biden signed a bill immediately terminating the executive COVID-19 national emergency. The executive national emergency, along with a separate public health emergency declared by the Department of Health and Human Services, allowed for increased flexibility in providing for and subsidizing COVID measures. Of particular interest to employers, the executive national emergency also afforded tax relief for businesses that employed remote workers.

During the pandemic, many states implemented safe-harbor policies that waived income-tax-withholding requirements and corporate-tax requirements for businesses employing remote workers who lived out of state. Most states' waivers were linked to state-level emergency declarations that expired last year (for example, Minnesota's waiver policy expired in June of 2022). But many states tied their safe-harbor policies to the executive national emergency, which President Biden just ended on April 10.

For many employers, remote-work environments will remain the norm post-pandemic. But in the absence of the safe-harbor policies implemented during the pandemic, employers who continue to have remote-

work arrangements need to consider tax implications and assume business as usual when it comes to tax liability.

### **Tax implications of employing remote workers:**

Each state has its own set of tax requirements that can include business activity taxes—including corporate-income tax, gross-receipts tax, franchise tax, sales-and-use tax, and other excise taxes—as well as income-tax-withholding requirements.

#### Business Activity Taxes

Business activity taxes are triggered when a business has “nexus” with a state. This means that a business has either a physical presence in that state or generates a certain amount of revenue from activity in that state. In some cases, simply having employees in a state might be enough to establish nexus, opening up employers to a host of tax liabilities they otherwise would not have. Although some states waived the nexus test for employees working remotely from home due to the pandemic, those waivers have now expired.

#### Income Withholding Taxes

Generally, employers are liable for withholding state and local income taxes from their employees’ paychecks based on where their employees work. If employers do not withhold these taxes, states can collect those amounts from employers directly. These amounts may not be significant, but income withholding imposes heavy administrative burdens on employers and may also result in compliance penalties.

### **Tips for employers with remote-work arrangements:**

With Tax Day top of mind and COVID-relief measures largely waning, employers should make sure they have policies in place that reflect pre-pandemic-era tax requirements.

Employers should keep track of where their employees are working, stay updated on evolving tax obligations and any applicable exceptions, and determine if their out of state employees may be creating a “nexus” that opens the door to additional tax liabilities. Employers should also include remote work policies in employee handbooks and individual employment agreements and review any existing remote-work policies that may no longer be supported by tax-relief waivers.

At Bassford Remele, we continuously counseled clients throughout the pandemic on adopting and implementing effective remote-work policies. As we put the pandemic in our rearview mirrors, we look forward to continue advising you on the changing laws and regulations as the emergency orders and safe-harbor provisions fall by the wayside.

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