

# Legal Update

## Working with Distance: Tax Developments and Considerations at the State and Local Level Related to COVID-19

State and local governments are on the front lines of the COVID-19 crisis, and decisions regarding the health and welfare of their citizens have been the priority and come first. State and local governments have not, however, ignored the potential impact of this crisis on the ability of individuals and businesses to meet their tax obligations. Over the past few weeks, many state and local taxing authorities have begun to address the filing and payment deadlines for income, sales & use, payroll, excise, and/or property taxes that are due now or in the coming months.<sup>1</sup> This Legal Update highlights some of the states' initial responses to COVID-19 and offers some state tax considerations for businesses implementing new employee work arrangements.

To date, many states have provided some combination of (1) extended filing and/or payment deadlines, and (2) waivers for late filing and/or payment penalties. While some states have mirrored the federal income tax relief outlined in IRS Notice 2020-18, others have issued their own guidance.<sup>2</sup> For example, some states have initially only extended their filing and payment deadlines for personal income tax,<sup>3</sup> some states are not waiving

interest on late payments, while others are not extending the deadlines for Q1 and/or Q2 2020 estimated tax payments. The chart below highlights some of the extensions and waivers that are available for income, commercial activity, excise, and sales & use taxes in certain jurisdictions.<sup>4</sup> Many states have only extended the income tax filing and/or payment deadlines for returns and payments due on April 15<sup>th</sup>, and have not addressed or extended informational returns, like partnership returns, or fiscal year filer returns. Additional guidance is expected over the next few weeks.

In addition, several states have been closing their offices and/or limiting in-person customer service at their taxpayer service centers. Others are requesting that taxpayers take advantage of phone and online resources as a way of preventing the spread of COVID-19. Audit functions are also slowing down, with many auditors requesting to extend the statute of limitations periods for assessment sooner than they normally would and for longer periods of time than usual. Some state audit departments have moved their auditors to work-from-home status, while others are now "on-call" meaning that

their working hours will likely be significantly reduced.<sup>5</sup>

Some states, either through executive order or judicial pronouncement, have extended court filing deadlines. Taxpayers relying on those extensions for filing protests should carefully consider whether the particular extension applies to an informal appeal (such as to a department of revenue's appeals division) or to an administrative law judge forum.<sup>6</sup> Whenever there is doubt, it would be prudent to adhere to the original protest filing deadline. Moreover, courts and administrative tribunals have postponed hearing dates and will likely be conducting certain proceedings telephonically during this time.

With respect to new working arrangements, governments across the country are encouraging, or even requiring, that many employers close their offices. As a result, many employees have been working from home to help decrease the spread of COVID-19. Such measures may raise unforeseen and complicated state and local tax questions. For the employer, an employee working from home may trigger new tax filing obligations, changes in withholding requirements, and altered income apportionment.

When an employee telecommutes and performs work from a state in which the employer previously did not have nexus—that is, did not have a sufficient connection for the state to assert tax jurisdiction under the U.S. Constitution—the new arrangement may surprise the employer with new state tax obligations. The employee is potentially conducting the employer's business in-state and creating a connection that did not previously exist. Although it is unclear how states will react to employees working from home as a result of COVID-19, states have become increasingly aggressive in asserting nexus over employers based on telecommuting employees, and this temporary shift in working arrangements may

develop more permanent features that states decide to address.<sup>7</sup>

Even as states have shifted much of their attention to economic criteria for nexus, especially after the Supreme Court decision in *Wayfair*,<sup>8</sup> they nonetheless have not given up on physical presence as a trigger for taxability. Therefore, it is possible that a state would contend that an employer is doing business, and taxable, because of a single employee working remotely in the state.<sup>9</sup> Connecticut and New Jersey, for example, have a large number of residents working from home after New York-based employers closed their offices in anticipation of, or pursuant to, the government mandate to do so. New Jersey generally treats employees working from home as sufficient to create nexus, but it has announced that it will waive the application of its remote employee threshold to determine nexus of foreign corporations, so long as the employee is working from home as a result of a closure or employer's social distancing policy.<sup>10</sup> This announcement removes significant uncertainty for employers. It remains to be seen how other states will address this situation, but it would not be surprising for them to assert nexus as a result of these employees' activities at home.

So what types of tax responsibilities and issues should businesses be thinking about if employees working remotely because of COVID-19 triggers nexus? They should be considering not just business income taxes, but also withholding taxes, personal income taxes, unemployment taxes, payroll taxes, and sales and use taxes, among others.

From a state withholding perspective, an employee's work location generally drives the withholding analysis, but the typical work location, state of residence, and certain state-specific rules also play a role. For example, some states, such as New York, Delaware, and Pennsylvania, have their own "convenience" rules—which generally overlook an

employee's work from home for his or her own convenience, and require the employer to withhold based on the employee's typical work location. COVID-19 has turned those convenience rules upside down because many employees must now work from home by government or employer mandate. Even New York might flinch at claiming a Connecticut resident is working from home for his or her own convenience at the moment. Some states also have reciprocal agreements in place with neighboring states under which withholding may be limited to the employee's state of residence, making remote working a non-issue for withholding purposes. On the issue of withholding for remote employees, New Jersey announced that it would not require employers to withhold on the basis of an employee's alternative work location during the COVID-19 pandemic; instead, income will "continue to be sourced as determined by the employer in accordance with the employer's jurisdiction."<sup>11</sup> We think this means the employer may continue to use its determination of the employee's regular office or work location as the basis for withholding.

Businesses will also have to evaluate whether this shift in their employees' work locations will change how much income they report in the states where they do business (or are now treated as doing business). This determination is generally called "income apportionment" and it can turn on the location of the business's customers, or the location where its employees perform services on its behalf, depending on the state. New York has a particularly complicated landscape. Corporations generally apportion their income in accordance with their markets under the State Franchise Tax and New York City Business Corporation Tax, but the State personal income tax, New York City Unincorporated Business Tax ("UBT"), and New York City General Corporation Tax ("GCT") (now applicable only to federal S

corporations) have their own regimes that, with some exceptions, do not use market sourcing. Thus, a partnership that does business in New York City will have to conduct separate apportionment analyses for its corporate partners, individual non-resident partners, and itself. Remote working may result in different consequences for each analysis. With many employees now shifting to work at home arrangements in New Jersey and Connecticut, the New York City UBT and GCT liabilities of their employers, and the State personal income tax of non-resident partners in the employers, may shift as well.

States are also considering the impact on unemployment tax rates in response to increased benefit payments from COVID-19. It is possible an employer could see an increase in 2021 based on benefits paid as a result of the virus, because tax rates are, generally, tied to the number of employees who claim coverage. In response to potential future increases, states may develop requirements that would allow employers to apply for a waiver of benefits paid due to COVID-19.

Taxes certainly are not going away. But with the various forms of relief many state and local governments are providing, a lot of the pressure surrounding filing and payment deadlines has been relieved, at least temporarily. This is welcome relief to many taxpayers and department of revenue personnel around the country. Please reach out to any of the contacts listed above to discuss how best to proceed.

Jurisdiction	Tax Type(s) <sup>12</sup>	New Filing and/or Payment Deadlines	Automatic Extensions
Alabama	Individual Income Tax, Corporate Income Tax, Financial Institutions Excise Tax, and Business Privilege Tax	The April 15 <sup>th</sup> filing and payment deadlines have been extended to July 15, 2020. Estimated tax payments due on April 15 <sup>th</sup> are also included in the extension. For pass-through entities, the March 15 <sup>th</sup> due date for filing a composite income tax return and making payments on behalf of non-resident members is also extended to July 15, 2020. Late filing and payment penalties will be waived. For payments and returns due on other dates, the Department of Revenue will consider requests for relief, in the form of penalty waivers and filing extensions, on a case-by-case basis.	Yes
Alabama	Sales & Use	Certain small businesses (with monthly retail sales averaging \$62,500 or less) that are unable to timely pay their February, March, and April 2020 state sales tax liabilities will receive waivers through June 1, 2020 of late payment penalties. Other businesses may apply for payment relief on a case-by-case basis. This relief does not waive or extend normal filing requirements.	Yes
Arizona	Individual, Corporate, and Fiduciary Income Taxes	The April 15 <sup>th</sup> filing and payment deadlines have been extended to July 15, 2020. Estimated tax payments are still due on April 15, 2020. Late filing and payment penalties will be waived.	Yes
Arkansas	Individual Income Tax	The April 15 <sup>th</sup> filing and payment deadlines have been extended to July 15, 2020. The 2020 estimated tax payments are still due on April 15, 2020 or June 15, 2020. The filing and payment extensions also apply to 2019 returns for S corporations, fiduciaries and estates, partnerships, and composite returns due on April 15 <sup>th</sup> .	Yes

		Late filing and payment penalties will be waived.	
California	Income Taxes Generally, LLC Taxes and Fees	The filing and payment deadlines for 2019 tax returns and payments, 2020 LLC taxes and fees, and 2020 non-wage withholding payments have been extended to July 15, 2020. Individual estimated tax payments for Q1 and Q2 2020 are included in the extension, as well as estimated tax payments due on or between March 15 <sup>th</sup> and April 15 <sup>th</sup> for C corporations, S corporations, and exempt organizations, Q2 is due July 15, 2020. Late filing and payment penalties will be waived. Note similar relief is available for fiscal year taxpayers.	Yes
California	Sales & Use	Through May 11, 2020, taxpayers can make requests to the CDTFA for filing and payment extensions.	Must be requested
Colorado	Income Taxes Generally	The April 15 <sup>th</sup> payment deadline has been extended to July 15, 2020 while the filing deadline has been extended to October 15, 2020. The payment extension also applies to 2020 estimated tax payments that are due between April 15, 2020 and June 15, 2020. The extensions apply to all individuals and businesses who pay income tax in Colorado. Late filing and payment penalties will be waived.	Yes
Connecticut	Personal Income and Business Taxes	The April 15 <sup>th</sup> filing and payment deadlines for personal income tax have been extended to July 15, 2020. First and second quarter estimated tax payments for 2020 are included in the extension. A filing extension of at least 30 days applies to certain annual tax returns due on or after March 15, 2020 and before June 1, 2020. Payment deadlines associated with these returns are also extended to June 15, 2020. The impacted returns include the 2019 pass-through entity tax return (extended to April 15, 2020), 2019 unrelated business	Yes

		tax return (extended to June 15, 2020), and 2019 corporate business tax return (extended to June 15, 2020). Note similar relief is available for fiscal year taxpayers with returns that would otherwise be due between March 15, 2020, and May 31, 2020. The business tax extensions do not apply to estimated tax payments due between March 15, 2020 and June 1, 2020.	
Delaware	Personal, Corporate, and Fiduciary Income Taxes	The April 30 <sup>th</sup> (personal/fiduciary) and April 15 <sup>th</sup> (corporate) filing and payment deadlines have been extended to July 15, 2020. Corporate tentative returns that would be due on April 15 <sup>th</sup> are now due on July 15, 2020. For personal income tax, estimated tax payments that are due on April 30, 2020 are extended to July 15, 2020, while second quarter estimated tax payments remain due on June 15, 2020. Late filing and payment penalties will be waived.	Yes
District of Columbia	Individual Income Tax, Fiduciary Income Tax, and Franchise Tax	The April 15 <sup>th</sup> filing and payment deadlines have been extended to July 15, 2020. Partnership tax returns due on April 15 <sup>th</sup> are also included in the extensions. The estimated tax payment due dates for individuals and businesses have not changed.	Yes
District of Columbia	Sales & Use	Penalties for failure to timely pay sales and use tax due for periods ending on February 29, 2020 and March 31, 2020 will be waived for all vendors (except for hotels and motels permitted to defer real property taxes). Monthly and quarterly returns must still be filed timely. All eligible vendors must pay in full by July 20, 2020.	Yes
Georgia	Income Taxes Generally	The April 15 <sup>th</sup> filing and payment deadlines have been extended to July 15, 2020. The payment extension applies to 2020 estimated tax payments	Yes

		due on April 15, 2020 as well. Late filing and payment penalties will be waived. Note similar relief is available for fiscal year taxpayers with a filing due date of April 15 <sup>th</sup> .	
Hawaii	Individual, Trusts/Estates, and Corporate Income Taxes	The April 20 <sup>th</sup> through June 20 <sup>th</sup> filing and payment deadlines have been extended to July 20, 2020. This relief does not apply to payments of 2020 estimated taxes. Late filing and payment penalties will be waived.	Yes
Idaho	Income Taxes Generally	The April 15 <sup>th</sup> filing and payment deadlines have been extended to June 15, 2020. Late filing and payment penalties will be waived. The extensions apply to all taxpayers including individuals, businesses, and entities.	Yes
Illinois	Individual, Trust, and Corporate Income Taxes	The April 15 <sup>th</sup> filing and payment deadlines have been extended to July 15, 2020. The 2020 estimated tax payment due dates have not changed. Late filing and payment penalties will be waived.	Yes
Illinois	Sales & Use	Penalties for late payment of sales tax for certain small eating & drinking establishments (that incurred a sales tax liability of less than \$75,000 in 2019) will be waived. Qualified taxpayers are required to file each reporting period by their original due dates. Taxpayers must pay their liabilities due in March, April, and May 2020 on four dates: May 20, June 22, July 20, and August 20, 2020.	Yes
Indiana	Individual and Business Income Taxes	The April 15 <sup>th</sup> or April 20 <sup>th</sup> filing and payment deadlines have been extended to July 15, 2020. Estimated tax payments originally due by April 15 <sup>th</sup> or April 20 <sup>th</sup> are also included in the July 15, 2020 extension. Those corporate returns originally due by May 15, 2020 are now due by August 17, 2020. Various returns included.	Yes

Iowa	Income Taxes Generally, Franchise Tax, Credit Union Moneys and Credits Tax	The filing and payment deadlines for income, franchise, and moneys and credits tax returns due on or after March 19, 2020 but before July 31, 2020 have been extended to July 31, 2020. The extension does not apply to estimated tax payments. No late filing and underpayment penalties will apply to taxpayers that comply with the extended deadlines. Various returns included.	Yes
Kansas	Individual Income Tax, Fiduciary Income Tax, Corporate Income Tax, and Privilege Tax	The April 15 <sup>th</sup> filing and payment deadlines have been extended to July 15, 2020. Estimated tax payments are still due on April 15, 2020. Late filing and payment penalties will be waived. Note similar relief is available for fiscal year taxpayers with filing and payment due dates between April 15, 2020 and July 15, 2020.	Yes
Kentucky	Income Taxes Generally	The April 15 <sup>th</sup> filing and payment deadlines have been extended to July 15, 2020. Late filing and payment penalties will be waived. Interest will still apply to the deferred income tax payments.	Yes
Louisiana	Individual, Corporate, and Fiduciary Income Taxes	The May 15 <sup>th</sup> filing and payment deadlines have been extended to July 15, 2020. The extensions also apply to partnership income tax returns and payments due on April 15 <sup>th</sup> or May 15 <sup>th</sup> . Late filing and payment penalties will be waived. For fiscal year taxpayers with an income tax or franchise tax return and payment due date between March 1 and May 30, 2020, the extension is sixty days from the original due date.	Yes
Louisiana	Sales & Use	The filing and payment deadline for the February 2020 sales tax period has been extended to May 20, 2020. Penalties and interest will be waived if the return and payment are received by the new deadline. Sales tax returns and	Yes

		payments must be submitted via LaTAP or by paper filing.	
Maine	Individual Income Tax, Estates and Trusts Income Tax, Corporate Income Tax, and Franchise Tax	The April 15 <sup>th</sup> filing and payment deadlines have been extended to July 15, 2020. The extension applies to estimated tax payments for tax year 2020 that are due on April 15, 2020. Late filing and payment penalties will be waived.	Yes
Maryland	Individual Income Tax, Corporate Income Tax, and Fiduciary Income Tax	The April 15 <sup>th</sup> filing and payment deadlines have been extended to July 15, 2020. The extension applies to estimated tax payments for the first quarter of 2020. The extensions apply to pass-through entity taxpayers as well. Fiscal year taxpayers with tax years ending January 1, 2020 through March 31, 2020 are also eligible for the July 15, 2020 extension for filing returns and payment. The due date for March quarterly estimated payments of 2020 taxes is also extended to July 15, 2020. Late filing and payment penalties will be waived.	Yes
Maryland	Sales & Use	Businesses with sales tax returns due during the months of March, April, and May 2020 will have filing and payment deadlines extended to June 1, 2020. Taxpayers that file and pay by the extended due date will receive a waiver of interest and penalties.	Yes
Massachusetts	Personal Income Tax	Personal income tax returns and payments due April 15, 2020 will now be due July 15, 2020. Additional guidance will be released.	Yes
Massachusetts	Sales & Use	The return and payment date for the period beginning March 20, 2020 and ending May 31, 2020, inclusive, shall be suspended and due on June 20, 2020. Relief applies to certain taxpayers whose total sales tax liability for the 12-months ending February 29, 2020 is less than \$150,000.	Yes

Michigan	Individual and Corporate Income Taxes	The April 15 <sup>th</sup> (individual) and April 30 <sup>th</sup> (corporate) filing and payment deadlines have been extended to July 15, 2020 and July 31, 2020, respectively. The extension applies to estimated tax payments that are due on April 15, 2020. Late filing and payment penalties will be waived.	Yes
Michigan	Sales & Use	Penalties will be waived for late filing or payment of sales tax due by March 20, 2020. The waiver is effective until April 20, 2020. This waiver is not available for accelerated sales and use tax filers.	Yes
Minnesota	Personal Income Tax	The April 15 <sup>th</sup> filing and payment deadlines have been extended to July 15, 2020. The extension does not apply to 2020 estimated tax payments that are due on April 15, 2020. Late filing and payment penalties will be waived.	Yes
Minnesota	Sales & Use	A 30-day grace period for sales and use tax payments for businesses identified in Executive Order 20-04 was granted. During this time, late payment penalties will not be assessed. Businesses with sales tax payments that were due March 20, 2020 will have until April 20, 2020 to make their payment.	Yes
Mississippi	Individual and Corporate Income Taxes	The April 15 <sup>th</sup> filing and payment deadlines have been extended to May 15, 2020. The first quarter 2020 estimated tax payment is also extended until May 15, 2020. Late filing and payment penalties will be waived.	Yes
Missouri	Individual, Corporate, and Fiduciary Income Taxes	The April 15 <sup>th</sup> filing and payment deadlines have been extended to July 15, 2020. The extension applies to estimated tax payments for tax year 2020 that are due on April 15, 2020. Late filing and payment penalties will be waived.	Yes
Montana	Individual Income Tax	The April 15 <sup>th</sup> filing and payment deadlines have been extended to July 15, 2020.	Yes

Nebraska	Income Taxes Generally	The April 15 <sup>th</sup> filing and payment deadlines have been extended to July 15, 2020. The extension applies to estimated tax payments that are due on April 15, 2020. Late filing and payment penalties will be waived.	Yes
New Hampshire	Business and Interest & Dividends Taxes	The April 15 <sup>th</sup> deadline to file or pay the Business Tax or Interest & Dividends Tax for tax year 2019 remains unchanged, except for certain small, qualifying taxpayers which will have extensions available to June 15 <sup>th</sup> . Additional guidance is expected.	Yes
New Jersey	Pending	The NJ Legislature has introduced AB 3841/SB 2300 that would automatically extend the time to file and pay taxes based on any federal extensions, but no later than June 30, 2020. The legislation passed and is awaiting signature from Governor Murphy.	Pending
New Mexico	Personal, Fiduciary, and Corporate Income Taxes	The April 15 <sup>th</sup> filing and payment deadlines have been extended to July 15, 2020. The extension applies to estimated tax payments due on April 15, 2020. Late filing and payment penalties will be waived.	Yes
New York	Individual, Fiduciary, and Corporate Income Taxes	The April 15 <sup>th</sup> filing and payment deadlines have been extended to July 15, 2020. The extension applies to 2020 estimated tax payments due on April 15, 2020. Late filing and payment penalties will be waived.	Yes
New York	Sales & Use	Sales tax payments and returns were due March 20, 2020. Penalty and interest may be waived for quarterly and annual filers that were unable to file or pay on time if a request is made.	Must be requested
New York City	Business Taxes	The Department of Finance has announced that it will grant automatic penalty waivers to taxpayers that request a waiver on a late-filed extension or return, or in a separate request, for business and excise taxes	Must be requested

		due between March 16, 2020, and April 25, 2020. Any interest must be paid on all tax payments received after the original due date.	
North Carolina	Individual, Estates and Trusts, and Corporate Income Taxes	The April 15 <sup>th</sup> filing and payment deadlines have been extended to July 15, 2020. The extensions also apply to partnership returns due on April 15 <sup>th</sup> . Taxpayers that do not pay estimated income tax between April 15, 2020 and July 15, 2020 will continue to be liable for failure to timely pay estimated income tax. Late filing and payment penalties will be waived, however, tax payments received after April 15 <sup>th</sup> will be charged accruing interest over the period from April 15 <sup>th</sup> until the date of payment.	Yes
North Dakota	Individual, Fiduciary, and Corporate Income Taxes	The April 15 <sup>th</sup> filing and payment deadlines have been extended to July 15, 2020. The extension applies to 2020 estimated tax payments due on April 15, 2020. The extensions are also available to partnerships and S corporations. Late filing and payment penalties will be waived.	Yes
Ohio	Personal and Business Income Taxes	The April 15 <sup>th</sup> filing and payment deadlines have been extended to July 15, 2020. The extension applies to Q1 and Q2 2020 estimated tax payments due on April 15, 2020 and June 15, 2020. The extension also applies to the school district income tax, the pass-through entity tax, and to those taxpayers that have opted in to have the commissioner administer the municipal net profit tax through the state's centralized filing system. Late filing and payment penalties will be waived.	Yes
Oklahoma	Individual and Corporate Income Taxes	The filing and payment deadlines have been extended to July 15, 2020. The estimated tax payment due on April 15, 2020 is now due by July 15, 2020. Late	Yes

		filing and payment penalties will be waived.	
Oregon	Personal, Fiduciary, and Corporate Income/Excise Taxes	The April 15 <sup>th</sup> (individual) or May 15 <sup>th</sup> (corporate) filing and payment deadlines have been extended to July 15, 2020. Returns and payments due after May 15, 2020 are not extended at this time. Estimated tax payments for tax year 2020 are not extended. Late filing and payment penalties will be waived. Note similar relief is available for fiscal year taxpayers with due dates on April 15 <sup>th</sup> or May 15 <sup>th</sup> .	Yes
Oregon	CAT	Underpayment penalties will not apply for taxpayers that made a good faith effort to estimate Commercial Activity Tax payments during the 1st quarter of 2020 for payments that are due by April 30, 2020.	Yes
Pennsylvania	Personal Income Tax	The April 15 <sup>th</sup> filing and payment deadlines have been extended to July 15, 2020. The extension applies to first and second quarter estimated tax payments for tax year 2020. Late filing and payment penalties will be waived.	Yes
Pennsylvania	Sales & Use	For April sales tax payments, the Department of Revenue is waiving the AST prepayment requirement and asking businesses to simply remit the sales tax that they have collected in March.	Yes
Rhode Island	Income Taxes Generally	The April 15 <sup>th</sup> filing and payment deadlines have been extended to July 15, 2020. The estimated tax payment due on April 15, 2020 is now due by July 15, 2020. Late filing and payment penalties will be waived. Various returns included.	Yes
South Carolina	Individual, Trust, and Corporate Income Taxes	The April 15 <sup>th</sup> filing and payment deadlines have been extended to July 15, 2020. Estimated tax payments due on April 15, 2020 are now due by July	Yes

		15, 2020. Late filing and payment penalties will be waived.	
South Carolina	Sales & Use	For tax returns and payments due between April 1, 2020 and June 1, 2020, the Department of Revenue has extended the due dates to June 1, 2020. Penalties will also be waived if payments are received by June 1, 2020.	Yes
Tennessee	Franchise/Excise	The April 15 <sup>th</sup> filing and payment deadlines have been extended to July 15, 2020. Estimated tax payments due on April 15, 2020 are now due by July 15, 2020. Late filing and payment penalties will be waived.	Yes
Utah	Individual and Corporate Income Taxes	The April 15 <sup>th</sup> filing and payment deadlines have been extended to July 15, 2020. The extensions also apply to pass-through entities with April 15 <sup>th</sup> due dates. Late filing and payment penalties will be waived.	Yes
Vermont	Personal, Fiduciary, and Corporate Income Taxes	The April 15 <sup>th</sup> filing and payment deadlines have been extended to July 15, 2020. Estimated tax payments due on April 15, 2020 are also included in the extension. Late filing and payment penalties will be waived.	Yes
Virginia	Individual, Fiduciary, and Corporate Income Taxes	Any income tax payments due during the time period of April 1, 2020, to June 1, 2020, will now be due on June 1, 2020. Penalties will be waived and estimated tax payments are included during this period. Interest will continue to accrue. All income tax filing deadlines remain the same.	Yes
Virginia	Sales & Use	The Department of Revenue will consider requests from vendors for an extension of the due date for filing and payment of the February 2020 sales tax return due March 20, 2020. If the request is granted, filing and payment will be extended to April 20, 2020.	Must be requested

		However, interest will accrue even if an extension is granted.	
Washington	Various	The Department of Revenue requests that businesses still file their returns even if they are unable to pay. For excise tax returns, businesses can request a payment extension for monthly returns. The Q1/2020 return is now due on June 1, 2020 and the Annual 2019 return is now due on June 15, 2020.	Must be requested
West Virginia	Individual, Trusts or Estates, and Corporate Income Taxes	The April 15 <sup>th</sup> filing and payment deadlines have been extended to July 15, 2020. Estimated tax payments that are due between April 15, 2020 and July 15, 2020 for individuals, trusts or estates, corporations, and pass-through entities are also included in this extension. Late filing and payment penalties will be waived.	Yes
Wisconsin	Income Taxes Generally	The April 15 <sup>th</sup> filing and payment deadlines have been extended to July 15, 2020. The first estimated income tax payment for 2020 due on April 15, 2020 is extended to July 15, 2020. Late filing and payment penalties will be waived. Various returns included.	Yes
Wisconsin	Sales & Use	Taxpayers may request a one-month extension to file a sales and use tax return. There isn't an extension of time to pay sales and use taxes. Interest will be imposed during the one-month extension period.	Must be requested

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## Endnotes

- <sup>1</sup> This relief will vary by jurisdiction and tax type.
- <sup>2</sup> For additional federal income tax guidance related to IRS Notice 2020-18, please see our Legal Update: *Initial U.S. Federal and State Tax Relief Developments Relating to COVID-19*.
- <sup>3</sup> Such as Pennsylvania, Arkansas, Massachusetts, Montana, and Minnesota. Additional guidance is expected.
- <sup>4</sup> Updated through March 30, 2020.
- <sup>5</sup> Some Illinois auditors are on call now.
- <sup>6</sup> For example, certain filing deadlines for New Jersey state tax court appeals have been extended to the later of May 1, 2020 or 30 days following a determination by Governor Murphy that the State of Emergency declared under Executive Order 103 has ended. California recently issued FTB Notice 2020-02 which extends the filing deadlines for claims for refund and protests of proposed tax assessments with the Franchise Tax Board (“FTB”), and to file an appeal or petition for rehearing with the Office of Tax Appeals (“OTA”). For example, in cases where an applicable statute of limitations to file a timely refund claim expires during the period of March 12, 2020, through July 15, 2020 (the “Postponement Period”), the FTB will consider the claim timely if filed on or before July 15, 2020. Likewise, if the period to file a timely written protest of a notice of proposed assessment expires during the Postponement Period, the FTB will consider the protest timely if filed on or before July 15, 2020. For an OTA appeal or petition for rehearing with a filing deadline that expires during the Postponement Period, the appeal or petition for rehearing will be considered timely if filed on or before July 15, 2020.
- <sup>7</sup> Compare to situations where out-of-state businesses send employees to provide emergency-related services in states that are impacted by hurricanes or other natural disasters. Last year, Louisiana Revenue Information Bulletin No. 19-011 (July 12, 2019) noted that “performance of

disaster or emergency-related work within the declared emergency period for Tropical Storm Barry does not create a physical presence or nexus in the State of Louisiana that would otherwise obligate the nonresident business or nonresident employee to register, file, or remit any income tax otherwise due on the disaster or emergency-related income.”

- <sup>8</sup> *South Dakota v. Wayfair*, 138 S.Ct. 2080 (2018).
- <sup>9</sup> See *Telebright Corp., Inc. v. Dir., Div. of Taxation*, 38 A.3d 604 (N.J. Super. Ct. App. Div. 2012) (holding one full-time, non-customer facing employee working from home in New Jersey was sufficient to establish CBT nexus for her employer). Remote workers can also jeopardize a company’s eligibility for federal protections under 15 U.S.C. 381 (Public Law 86-272), which otherwise prevents a state from imposing income tax on a business that only has certain types of in-state presence related to selling merchandise, equipment, and other tangible personal property.
- <sup>10</sup> Per the New Jersey Division of Taxation’s website (last visited March 31, 2020): “Tele-Commuting and Corporate Nexus – 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.”
- <sup>11</sup> See the “Telecommuter COVID-19 Employer and Employee FAQ” section on the New Jersey Division of Taxation’s website (last visited March 31, 2020).
- <sup>12</sup> States have been releasing guidance on a rolling basis.

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