

Income/Franchise:

New York ALJ Denies Nonresident's Refund Request for Remote Work Performed During COVID-19 Pandemic Office Closure

Determination DTA No. 830731, N.Y. Div. of Tax App., ALJ Div. (8/8/24). In a case involving a nonresident claiming a refund of New York State individual income taxes paid on income he earned while working remotely in Pennsylvania for 196 days for a New York employer during calendar year 2020 after his New York City office closed due to the COVID-19 pandemic, an administrative law judge (ALJ) with the New York State Division of Tax Appeals denied the refund claim, holding that the taxpayer failed to meet his burden that he worked out-of-state due to his employer's necessity rather than for his own convenience. Noting that "the COVID-19 pandemic created extraordinary circumstances in 2020" and the "crisis certainly merited the closure of his employer's New York office," the ALJ referenced earlier "convenience of the employer" rulings and reasoned that the facts here nevertheless showed the employees' ability to work remotely from Pennsylvania was "permitted, but not obligatory." That is, according to the ALJ, the nonresident in this case was "in a situation where he did not have to work remotely, but also could not work at the New York office," but nothing in the facts indicated that he specifically needed to carry out his employment duties at his Pennsylvania home as opposed to any other location. As such, the ALJ concluded that the nonresident did *not* work remotely from Pennsylvania out of his employer's necessity. Under the facts, the nonresident's employer had maintained an office for him in New York prior to the pandemic office closure, and the nonresident worked in New York for a total of 66 days in calendar year 2020 prior to this office closure. Please contact us with any questions.

URL: <https://www.dta.ny.gov/pdf/determinations/830731.det.pdf>

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