

Income/Franchise:

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

Determination DTA No. 830818, N.Y. Div. of Tax App., ALJ Div. (9/12/24). 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 New Jersey during calendar year 2020 for an international investment fund with a New York City office that was exempt from certain COVID-19 pandemic-related restrictions as an "essential business," 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. In doing so, the ALJ noted that the employer was under no legal mandate to close its New York City office during the COVID-19 pandemic, but theoretically, it could have ordered its employees to report from specific locations for its own necessity. Under the facts, the nonresident's employer had maintained an office in New York City prior to and during the pandemic, and the nonresident worked in New York during the beginning of 2020. The ALJ held that the taxpayer did not avail himself of the opportunity to adduce evidence proving his claim that the employer closed its New York City office during 2020 and had ordered its employees to work from home full-time after such closure. Please contact us with any questions.

URL: <https://www.dta.ny.gov/pdf/determinations/830818.det.pdf>

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