

Income/Franchise:

Federal: Introduced US House Bill Seeks to Limit State Taxation of Compensation Earned by Nonresident Telecommuters and Other Multistate Workers

H.R. 10026, introduced in US House of Representatives 10/22/24. Pending legislation known as the “Multi-State Worker Tax Fairness Act of 2024” has been introduced in the US House of Representatives which, if enacted, would “limit the extent to which States may tax the compensation earned by nonresident telecommuters and other multi-State workers.” Under this pending federal legislation, in applying its income tax laws to the compensation of a nonresident individual, “a State may deem such nonresident individual to be present in or working in such State for any period of time only if such nonresident individual is physically present in such State for such period and such State may not impose nonresident income taxes on such compensation with respect to any period of time when such nonresident individual is physically present in another State.” For purposes of determining the periods of time with respect to which compensation is paid, the pending legislation provides that “no State may deem a period of time during which a nonresident individual is physically present in another State and performing certain tasks in such other State” to be:

URL: <https://www.congress.gov/bill/118th-congress/house-bill/10026/text>

- Time that is not normal work time unless such individual’s employer deems such period to be time that is not normal work time;
- Nonworking time unless such individual’s employer deems such period to be nonworking time; or
- Time with respect to which no compensation is paid unless such individual’s employer deems such period to be time with respect to which no compensation is paid.

The pending federal legislation includes a number of relevant underlying definitions, and if enacted, would take effect immediately. Note that this pending federal legislation potentially may limit state “convenience of the employer”-type rules – for example, in taxing jurisdictions like New York that may otherwise treat wages of employees assigned to a New York office as New York-sourced even when the employees are working from their homes outside of New York. Please contact us with any questions.

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