

## Income/Franchise:

### New York Tax Appeals Tribunal Denies Refund Request for Remote Work Performed Before and During COVID-19 Pandemic

*Decision DTA Nos. 830517 and 830681*, N.Y. Tax App. Trib. (5/15/25). In a case involving a nonresident claiming that he was entitled to a refund of New York State personal income taxes paid on income earned while he worked remotely in Connecticut for a New York employer before and during the COVID-19 pandemic, the New York Tax Appeals Tribunal (Tribunal) affirmed the denied refund claims and agreed with the Administrative Law Judge at the New York State Division of Tax Appeals that he worked out-of-state for his own convenience rather than his employer's necessity [see Determination DTA Nos. 830517 and 830681, N.Y. Div. of Tax App., ALJ Div. (11/30/23), and *State Tax Matters*, Issue 2023-48, for details on the 2023 New York State Division of Tax Appeals determination in this case]. In doing so, the Tribunal explained that "the nature of the employment relationship is paramount in considering whether the days on which a taxpayer claims to have performed personal services outside New York are subject to application of the convenience rule" – specifically, "whether the employer established a nexus in another jurisdiction by directing its employee to perform personal services in that out-of-state location for its own necessity." According to the Tribunal, absence a showing of such a fact, a nonresident taxpayer's personal services performed for a New York employer will be subject to the convenience rule if the taxpayer performs those personal services both within and outside of New York.

URL: <https://www.dta.ny.gov/pdf/determinations/830517.det.pdf>

URL: [https://dhub.deloitte.com/Newsletters/Tax/2023/STM/231208\\_4.html](https://dhub.deloitte.com/Newsletters/Tax/2023/STM/231208_4.html)

In this case, the Tribunal explained that because the taxpayer failed to show that his employer required him to perform the functions of his job at his home in Connecticut, as opposed to anywhere else, the convenience of the employer rule was properly applied in calculating his New York income apportionment. Ruling otherwise, according to the Tribunal, would allow employees like the taxpayer in this case to "reassign the *situs*es of their sources of income derived from employment by choosing an out-of-state location where they would perform their job responsibilities, thereby subjecting an employer to the law of that jurisdiction without the employer's consent." Please contact us with any questions.

— Jack Trachtenberg (New York)  
Principal  
Deloitte Tax LLP  
[jtrachtenberg@deloitte.com](mailto:jtrachtenberg@deloitte.com)

Robert Waldow (Minneapolis)  
Principal  
Deloitte Tax LLP  
[rwaldow@deloitte.com](mailto:rwaldow@deloitte.com)

Don Roveto (New York)  
Partner  
Deloitte Tax LLP  
[droveto@deloitte.com](mailto:droveto@deloitte.com)

Josh Ridiker (New York)  
Managing Director  
Deloitte Tax LLP  
[jridiker@deloitte.com](mailto:jridiker@deloitte.com)

Mary Jo Brady (Jericho)  
Senior Manager  
Deloitte Tax LLP  
mabrady@deloitte.com

Alyssa Keim (Philadelphia)  
Senior Manager  
Deloitte Tax LLP  
jridiker@deloitte.com

Olivia Chatani (Washington, DC)  
Senior Manager  
Deloitte Tax LLP  
ochatani@deloitte.com

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