



Checkpoint™ Daily Updates

COVID-19 telecommuting survey: State guidance on business tax nexus slows

Checkpoint Catalyst continues to monitor the corporate income tax nexus and apportionment consequences of the rise in remote work due to the COVID-19 pandemic, along with the sales and use tax nexus implications of these new work arrangements. In the past month, only the California Franchise Tax Board has announced a new suspension of corporate income tax nexus consequences for employees working from home due to the Governor's executive order. The enclosed chart details the latest updates to our nationwide nexus survey.

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At press time, several competing federal bills designed to provide nexus clarity were stalled.¹ Meanwhile, differing state and local approaches to personal income tax withholding for COVID-19 telecommuters are generating controversy that does not augur well for quick or clear resolution of business tax nexus issues.

This article includes the latest updates to the Checkpoint Catalyst COVID-19 Telecommuting Survey. Our comprehensive survey report, released in June, is available to download via [this form](#).

CALIFORNIA. On September 11, 2020, the California Franchise Tax Board (FTB) announced that an out-of-state corporation will not have corporate income tax nexus if its only connection to California is the presence of an employee who is teleworking in California due to the Governor's executive order requiring all residents to stay at home in order to prevent the spread of COVID-19.² Nor will the FTB include the compensation attributable to an employee who is currently teleworking due to the executive order in the minimum payroll nexus threshold set forth in California law.³ Finally, the FTB announced that an out-of-state corporation will not lose the protection of P.L. 86-272 if the corporation's only presence in California is an employee who is currently teleworking in California due to the executive order.

The California Department of Tax and Fee administration has not yet issued guidance on the sales and use tax nexus implications of telecommuters temporarily working in the state due to COVID-19.

PERSONAL INCOME TAX WITHHOLDING. COVID-19 telecommuting raises tax issues beyond corporate nexus in the remote worker's state of residence. Employers should be aware that significant personal income tax withholding implications extend to the state (and sometimes the locality) where the remote worker's office is located. Reciprocity agreements among states and other special rules may further impact these complicated scenarios. While a detailed consideration is outside the scope of this article, the divergent approaches that are emerging suggest that the jurisdictional questions raised by widespread remote work will not be easily resolved.

For example, the Massachusetts Department of Revenue issued guidance and regulations taking the position that all compensation received for personal services performed by a telecommuting non-resident who, immediately prior to the Massachusetts COVID-19 state of emergency, was an employee engaged in performing those services in Massachusetts, will continue to be subject to state personal income tax withholding.⁴ Massachusetts's credit for taxes paid to another state is available for resident individuals who are suddenly telecommuting from Massachusetts but remain subject to income tax in the state where they physically worked prior to the state of emergency.

The tax agencies for Maryland and Iowa also advised employers that personal income tax withholding requirements are unaffected by the current shift from working on the employer's premises to teleworking,⁵ whereas the Georgia Department of Revenue has indicated that if an employee is temporarily working in the state due to the coronavirus pandemic, wages earned during that period would not be subject to withholding.⁶

On the local front, Ohio passed controversial legislation in March that, for purposes of municipal income tax withholding, treats any day on which an employee performed services at home during the period of COVID-19 emergency (and within 30 days after the emergency is lifted) as a day performed at their principal place of work.⁷ Two bills were subsequently introduced to repeal that law and allow the jurisdiction of residence to collect taxes,⁸ but one Ohio policy group devoted to sustainable growth and urban revitalization refers to these bills as a "mortal threat" to the economic competitiveness of Ohio's large cities who depend on revenue from personal income taxes.⁹

¹ See generally COVID-19 Telecommuting: State Tax Nexus Guidance Continues to Lag, Suggesting Possible Nexus-As-Usual in Key States, Checkpoint State Tax Updates, 09/14/2020, and COVID-19 Telecommuting: Two States Lock In 2020 End Dates for Business Tax Nexus Waivers, Checkpoint State Tax Updates, 08/07/2020.

² COVID-19 Frequently Asked Questions for Tax Relief and Assistance, California Franchise Tax Board, 09/11/2020.

³ See Cal. Rev. & Tax. Cd. § 23101(b)(2)(4).

⁴ Mass. Regs. Code 830 CMR § 62.5A.3; Mass. Gen. L. Ch. 14 § 6(l), adopted as emergency rule, eff. 4-21-2020 and revised as emergency rule, eff. 7-21-2020; Massachusetts Technical Information Release No. 20-10, 07/21/2020.

⁵ Maryland, 04-14-20B, Employer withholding requirements for teleworking employees during the COVID-19 emergency, 04/14/2020; Iowa, COVID-19 FAQs on Income Tax, 05/15/2020.

⁶ Georgia: Coronavirus Tax Relief FAQs, 05/01/2020.

⁷ L. 2020, H197, eff. 03/27/2020.

⁸ S352, introduced 08/11/2020, first hearing in Local Government, Public Safety and Veterans Affairs Committee, 09/22/2020; H754, introduced 08/31/2020.

⁹ A Mortal Threat to Ohio's Economic Competitiveness, Greater Ohio Policy Center, 09/01/2020.

Similar debates are likely to play out across the country, as they are in Missouri, where the St. Louis Collector of Revenue advised employers over the summer that employees who have been working remotely due to the COVID-19 emergency should be treated as working at their original, principal place of work for city earnings tax withholding purposes.¹⁰

For Checkpoint Catalyst subscribers, the following topics offer in-depth analysis of individual states' approaches to nexus and apportionment:

[Catalyst Topic #1002, Nexus](#) (covering corporate income tax nexus and certain other business taxes, including Ohio's commercial activity tax, Texas' franchise margin tax, and Washington's business and occupation tax)

[Catalyst Topic #1005, Allocation and Apportionment](#)

[Catalyst Topic #1050, Sales and Use Tax Nexus](#)

Our updated state-by-state survey chart follows.

¹⁰ COVID-19 Withholding and Refund Policy, Earnings Tax Forms and Information, City of St. Louis Collector of Revenue, last accessed 10/06/2020.

Checkpoint Catalyst Survey: Telecommuting & Nexus

State	Income Tax Nexus and Apportionment	Sales Tax Nexus
AL	<p>Formal guidance: Nexus and apportionment.</p> <p>The Alabama Department of Revenue issued guidance that the agency "will not consider temporary changes in an employee's physical work location during periods in which temporary telework requirements are in place due to the pandemic to impose nexus or alter apportionment of income for any business." (Operational Updates Due to COVID-19, Alabama Department of Revenue, 05/14/2020.)</p>	<p>No guidance or response.</p>
AK	<p>Survey response.</p> <p>The Alaska Department of Revenue replied that "Alaska does not have any de minimis standard or exception provided in statute or regulation, so an employee whose compensation is assignable to Alaska under 15 AAC 19.241 would create nexus for that business entity." (Email from Alaska Department of Revenue to Checkpoint Catalyst, 05/18/2020.)</p>	<p>No statewide sales tax.</p>
AZ	<p>Survey response.</p> <p>The Arizona Department of Revenue replied that the agency "has determined that in general, there is no requirement to waive nexus" for corporate privilege tax. "Telecommuting in Arizona would establish income tax nexus for the employer." However, "if the employee is only telecommuting in this state due to COVID-19 the Department will not consider such telecommuting as creating nexus." (Email from Arizona Department of Revenue to Checkpoint Catalyst, 05/21/2020.)</p>	<p>Survey response.</p> <p>The Arizona Department of Revenue replied that the agency "has determined that in general, there is no requirement to waive nexus" for transaction privilege tax purposes. The agency takes the position that "for purposes of transaction privilege tax or TPT nexus, the physical presence standards are not affected by COVID-19. Generally, in this situation, an employee's in-state activities would not be significantly associated with their employer's ability to establish and maintain a market in Arizona." (Email from Arizona Department of Revenue to Checkpoint Catalyst, 05/21/2020.)</p>
AR	<p>Survey response.</p> <p>The Arkansas Department of Finance and Administration replied that "Arkansas has not issued any guidance on suspending nexus rules due to telecommuting because of COVID-19. (Email from Arkansas Department of Finance and Administration to Checkpoint Catalyst, 06/05/2020.)</p>	<p>Survey response.</p> <p>The Arkansas Department of Finance and Administration replied that "Arkansas has not issued any guidance on suspending nexus rules due to telecommuting because of COVID-19. (Email from Arkansas Department of Finance and Administration to Checkpoint Catalyst, 06/05/2020.)</p>

State	Income Tax Nexus and Apportionment	Sales Tax Nexus
CA	<p>Formal guidance: Nexus only.</p> <p>On September 11, 2020, the California Franchise Tax Board (FTB) announced that an out-of-state corporation will not have nexus if its only connection to California is the presence of an employee who is teleworking in California due to the Governor's executive order requiring all residents to stay at home in order to prevent the spread of COVID-19. Also, the FTB will not include the compensation attributable to an employee who is currently teleworking due to the executive order in the minimum payroll nexus threshold set forth in Cal. Rev. & Tax. Cd. § 23101(b)(2)(4). Finally, the FTB announced that an out-of-state corporation will not lose the protection of P.L. 86-272 if the corporation's only presence in California is an employee who is currently teleworking in California due to the executive order. (COVID-19 Frequently Asked Questions for Tax Relief and Assistance, California Franchise Tax Board, 09/11/2020.)</p>	<p>No guidance or response.</p>
CO	<p>Survey response.</p> <p>The Colorado Department of Revenue replied that "there are not currently any executive orders or emergency rules in effect that modify the statutes and rules regarding income tax nexus. Any COVID-19 related tax changes are listed on the COVID-19 Updates web page." (Email from Colorado Department of Revenue to Checkpoint Catalyst, 05/19/2020.)</p>	<p>Survey response.</p> <p>The Colorado Department of Revenue replied that "there are not currently any executive orders or emergency rules in effect that modify the statutes and rules regarding sales tax nexus. Any COVID-19 related tax changes are listed on the COVID-19 Updates web page." (Email from Colorado Department of Revenue to Checkpoint Catalyst, 05/19/2020.)</p>
CT	<p>Survey response.</p> <p>The Connecticut Department of Revenue Services replied that the agency "is in the process of developing such guidance, which will ensure fair and equitable treatment of Connecticut resident individuals, as well as Connecticut-based businesses." (Email from Connecticut Department of Revenue Services to Checkpoint Catalyst, 05/18/2020.)</p>	<p>Survey response.</p> <p>The Connecticut Department of Revenue Services replied that the agency "is in the process of developing such guidance, which will ensure fair and equitable treatment of Connecticut resident individuals, as well as Connecticut-based businesses." (Email from Connecticut Department of Revenue Services to Checkpoint Catalyst, 05/18/2020.)</p>
DE	<p>No guidance or response.</p>	<p>No sales tax.</p>

State	Income Tax Nexus and Apportionment	Sales Tax Nexus
DC	<p>Formal guidance: Nexus only.</p> <p>The District of Columbia Office of Tax and Revenue issued guidance that it "will not seek to impose corporation franchise tax or unincorporated business franchise tax nexus solely on the basis of employees or property used to allow employees to work from home (e.g., computers, computer equipment, or similar property) temporarily located in the District during the period of the declared public emergency and public health emergency" (currently March 11, 2020 through October 9, 2020), including any further extensions by the mayor, and for 90 days after the mayor declares an end to the public emergency. (OTR Notice 2020-07, 09/03/2020; OTR Tax Notice 2020-05, 04/10/2020.)</p>	<p>Survey response.</p> <p>The District of Columbia Office of Tax and Revenue replied that the original nexus notice "pertains to corporation franchise tax or unincorporated business franchise tax only. Sales and Use regulations haven't changed." The agency suggests that businesses follow its COVID-19 updates for the latest information. (Email from District of Columbia Office of Tax and Revenue to Checkpoint Catalyst, 05/19/2020.)</p>
FL	<p>No guidance or response.</p>	<p>No guidance or response.</p>
GA	<p>Formal guidance: Nexus only.</p> <p>The Georgia Department of Revenue issued guidance that the agency will not use someone's relocation that is the direct result of temporary work requirements arising from and during the COVID-19 pandemic as the basis for establishing Georgia nexus (or for exceeding the protections provided by P.L. 86-272) for the employer of the temporarily relocated employee. The temporary protections will extend for periods of time when the employee is working from home because on an official work from home order issued by an applicable federal, state, or local government unit, or because of a physician's order or an actual diagnosis of COVID-19. If the person continues to work from Georgia after the temporary work requirement has ended, the normal rules for determining nexus will apply. (Coronavirus Tax Relief FAQs, Georgia Department of Revenue, 05/01/2020.)</p>	<p>No guidance or response.</p>
HI	<p>Survey response.</p> <p>The Hawaii Department of Revenue replied that it "has not yet made a determination on your question, but it will probably be done on a case-by-case basis." (Email from Hawaii Department of Revenue to Checkpoint Catalyst, 05/18/2020.)</p>	<p>Survey response.</p> <p>The Hawaii Department of Revenue replied that it "has not yet made a determination on your question, but it will probably be done on a case-by-case basis." (Email from Hawaii Department of Revenue to Checkpoint Catalyst, 05/18/2020.)</p>

State	Income Tax Nexus and Apportionment	Sales Tax Nexus
ID	<p>Survey response.</p> <p>The Idaho State Tax Commission replied that "there have not been any changes to existing statutes or policies regarding nexus. The Tax Commission does not have that authority unilaterally. The Commissioners will continue to consider cases on an individual basis[;] they can resolve an individual situation. Idaho has less of those nexus issues than some other states. We don't have large urban areas near our borders for the most part. We have a few cross border communities, for example with Washington, where employees will work in Washington and live in Idaho. We don't expect the number [of] issues to increase dramatically due to the pandemic. If things change and it becomes necessary, we will have to alert the Governor and the Legislature for their consideration." (Email from Idaho State Tax Commission to Checkpoint Catalyst, 05/18/2020.)</p>	<p>Survey response.</p> <p>The Idaho State Tax Commission replied that "there have not been any changes to existing statutes or policies regarding nexus. The Tax Commission does not have that authority unilaterally. The Commissioners will continue to consider cases on an individual basis[;] they can resolve an individual situation. Idaho has less of those nexus issues than some other states. We don't have large urban areas near our borders for the most part. We have a few cross border communities, for example with Washington, where employees will work in Washington and live in Idaho. We don't expect the number [of] issues to increase dramatically due to the pandemic. If things change and it becomes necessary, we will have to alert the Governor and the Legislature for their consideration." (Email from Idaho State Tax Commission to Checkpoint Catalyst, 05/18/2020.)</p>
IL	<p>Survey response.</p> <p>The Illinois Department of Revenue replied that "nexus is a very complex question that must be determined based on individual facts and circumstances, so the Department will not be issuing any guidance related to nexus due to COVID-19." (Email from Illinois Department of Revenue to Checkpoint Catalyst, 05/18/2020.)</p>	<p>Survey response.</p> <p>The Illinois Department of Revenue replied that "nexus is a very complex question that must be determined based on individual facts and circumstances, so the Department will not be issuing any guidance related to nexus due to COVID-19." (Email from Illinois Department of Revenue to Checkpoint Catalyst, 05/18/2020.)</p>
IN	<p>Formal guidance: Nexus only.</p> <p>The Indiana Department of Revenue issued guidance that the agency will not use someone's relocation "that is the direct result of temporary work requirements arising from and during the COVID-19 pandemic health crisis" as the basis for establishing Indiana nexus (or for exceeding the protections provided by P.L. 86-272) for the employer of the temporarily relocated employee. The temporary protections will extend for periods of time when the employee is working from home because on an official work from home order issued by an applicable federal, state, or local government unit, or because of a physician's order or an actual diagnosis of COVID-19. If the person continues to work from Indiana after the temporary work requirement has ended, nexus may be established. (Coronavirus Information, Indiana Department of Revenue, 04/06/2020.)</p>	<p>Survey response.</p> <p>The Indiana Department of Revenue replied, "in answer to your question concerning sales tax, we are not currently offering temporary relief from the physical presence standards for determining whether a business must register to collect sales tax in the event that the business has an employee telecommuting from Indiana." (Email from Indiana Department of Revenue to Checkpoint Catalyst, 06/04/2020.)</p>

State	Income Tax Nexus and Apportionment	Sales Tax Nexus
IA	<p>Formal guidance: Nexus only.</p> <p>The Iowa Department of Revenue issued guidance that, despite the state's broad "doing business" nexus standard, the agency does not consider "the presence of employees who normally work outside of Iowa, but who are now working remotely from within the state solely as a result of the COVID-19 pandemic state of emergency" to represent "the type of business activity on the part of the employer contemplated by the law." While Iowa's state of emergency in response to COVID-19, or similar declared state of emergency in the state where the worker normally worked prior to the COVID-19 pandemic, remains in effect, the Department will not consider the presence of one or more employees working remotely from within Iowa solely due to the COVID-19 pandemic, by itself, sufficient business activity within the state to establish Iowa corporate income tax nexus or sufficient to cause a corporation to lose the protections of P.L. 86-272. (COVID-19 Income Tax FAQs, Iowa Department of Revenue, 05/15/2020.)</p>	<p>No guidance or response.</p>
KS	<p>Survey response.</p> <p>The Kansas Department of Revenue replied that the agency has not issued any guidance. (Email from Kansas Department of Revenue to Checkpoint Catalyst, 07/14/2020.)</p>	<p>Survey response.</p> <p>The Kansas Department of Revenue replied that the agency has not issued any guidance. (Email from Kansas Department of Revenue to Checkpoint Catalyst, 07/14/2020.)</p>
KY	<p>Formal guidance.</p> <p>On July 16, 2020, the Kentucky Department of Revenue issued guidance under its Income Tax FAQs that the agency will take a case-by-case approach to reviewing Kentucky income tax nexus determinations concerning the presence of an employee working in Kentucky due to the COVID-19 public health emergency. (Income Tax FAQs, Kentucky Department of Revenue, 07/16/2020.)</p>	<p>Survey response.</p> <p>The Kentucky Department of Revenue replied that, "[a]s far as extenuating or temporary circumstances due to COVID-19 procedures affecting employee locations, we also will be reviewing on a case by case basis," and provided a link to Kentucky law requiring remote retailers with 200 or more sales into the state or \$100,000 or more in gross receipts from sales into the state to register and collect Kentucky sales and use tax. (Email from Kentucky Department of Revenue to Checkpoint Catalyst, 07/20/2020.)</p>
LA	<p>Survey response.</p> <p>The Louisiana Department of Revenue replied that it will issue a revenue ruling establishing that an employee's temporary relocation due to "remote work requirements which are imposed solely as a response to the COVID-19 public health emergency will not be used, on its own, as the basis for establishing nexus with Louisiana or for exceeding the protections imposed by P.L. 86-272 for the employer of the employee." Compensation received by "individuals for services rendered in a location which is different than an employee's ordinary work location and which relocation is due to temporary remote work requirements imposed solely as a response to the COVID-19 public health emergency" is sourced to "the employee's ordinary work location." For oil and gas industry taxpayers, services performed by employees temporarily relocated in Louisiana due to COVID-19 remote work requirements are not "Louisiana payroll" for purposes of the payroll factor." (Email from Louisiana Department of Revenue to Checkpoint Catalyst, 05/20/2020.)</p>	<p>Survey response.</p> <p>The Louisiana Department of Revenue replied that its forthcoming corporate income tax nexus ruling will not apply for sales and use tax purposes. (Email from Louisiana Department of Revenue to Checkpoint Catalyst, 05/20/2020.)</p>

State	Income Tax Nexus and Apportionment	Sales Tax Nexus
ME	<p>Survey response.</p> <p>The Maine Department of Revenue Services replied that "there is no current provision for waiving nexus" for Maine corporate income tax purposes. (Email from Maine Department of Revenue to Checkpoint Catalyst, 05/19/2020.)</p>	<p>Survey response.</p> <p>The Maine Department of Revenue Services replied that "there is no current provision for waiving nexus" for Maine sales and use tax purposes. (Email from Maine Department of Revenue to Checkpoint Catalyst, 05/19/2020.)</p>
MD	<p>Formal guidance.</p> <p>The Maryland Comptroller's Office issued guidance that it "does not intend to change or alter the facts and circumstances it has consistently used to determine nexus or income sourcing," and "will recognize the temporary nature of a business' interim workplace model and employee deployment in light of and during the current health emergency and will not use these temporary measures to impose business nexus; to alter the sourcing of business income; or to impose additional withholding requirements on the employer." (Maryland Tax Alert 05-04-20, Maryland Comptroller's Office, 05/04/2020.)</p>	<p>Survey response.</p> <p>The Maryland Comptroller's Office replied that "if the seller's only presence in the state is an employee or employees working temporarily in Maryland during the COVID-19 pandemic and their sales into Maryland are below the statutory threshold, the presence of the employee or employees will not result in sales tax nexus." (Email from Maryland Comptroller's Office to Checkpoint Catalyst, 05/20/2020.)</p>
MA	<p>Formal guidance.</p> <p>On July 21, 2020, the Massachusetts Department of Revenue updated prior guidance establishing a waiver for corporate income tax nexus, to provide an expiration date of the earlier of December 31, 2020, or 90 days after the state of emergency in Massachusetts is lifted. Under the waiver, nexus is not triggered by employees working remotely in Massachusetts as a result of one of the following: a pandemic-related circumstance including a government order issued in response to the COVID-19 pandemic; a remote work policy adopted by an employer in good faith compliance with federal or state government guidance or public health recommendations relating to COVID-19; or a worker's compliance with quarantine, isolation directions relating to a COVID-19 diagnosis or suspected diagnosis, or advice of a physician relating to COVID-19 exposure. Also during this period, an employee working remotely from Massachusetts solely due to a pandemic-related circumstance will not "cause a corporation to lose the protections of Public Law 86-272," and services performed by such an employee will not "increase the numerator of the employer's payroll factor for corporate apportionment purposes." (Massachusetts Technical Information Release No. 20-10, 07/21/2020.)</p>	<p>Formal guidance.</p> <p>On July 21, 2020, the Massachusetts Department of Revenue updated prior guidance establishing a waiver for sales and use tax nexus, to provide an expiration date of the earlier of December 31, 2020, or 90 days after the state of emergency in Massachusetts is lifted. Under the waiver, nexus is not triggered by one or more employees working remotely in Massachusetts as a result of one of the following: a pandemic-related circumstance including a government order issued in response to the COVID-19 pandemic; a remote work policy adopted by an employer in good faith compliance with federal or state government guidance or public health recommendations relating to COVID-19; or a worker's compliance with quarantine, isolation directions relating to a COVID-19 diagnosis or suspected diagnosis, or advice of a physician relating to COVID-19 exposure. During this period, the Department will not consider the presence of an employee working remotely from Massachusetts solely due to a pandemic-related circumstance to be sufficient in and of itself to trigger sales and use tax nexus. (Massachusetts Technical Information Release No. 20-10, 07/21/2020.)</p>
MI	<p>Survey response.</p> <p>The Michigan Department of Treasury replied that "the state of Michigan is not waiving nexus requirements due to virus-related telecommuting at this time. For the latest tax-related updates, please continue to check the state Treasury Department's COVID-19 website." (Email from Michigan Department of Treasury to Checkpoint Catalyst, 05/19/2020.)</p>	<p>Survey response.</p> <p>The Michigan Department of Treasury replied that "the state of Michigan is not waiving nexus requirements due to virus-related telecommuting at this time. For the latest tax-related updates, please continue to check the state Treasury Department's COVID-19 website." (Email from Michigan Department of Treasury to Checkpoint Catalyst, 05/19/2020.)</p>

State	Income Tax Nexus and Apportionment	Sales Tax Nexus
MN	Formal guidance: Nexus only. The Minnesota Department of Revenue issued guidance that it will not assert nexus for business income tax purposes "solely because an employee is temporarily working from home due to the COVID-19 pandemic." (COVID-19 FAQs for Businesses, Minnesota Department of Revenue, 05/05/2020.)	Formal guidance. The Minnesota Department of Revenue issued guidance that it will not assert nexus for sales and use tax purposes "solely because an employee is temporarily working from home due to the COVID-19 pandemic." (COVID-19 FAQs for Businesses, Minnesota Department of Revenue, 05/05/2020.)
MS	Formal guidance: Nexus and apportionment. The Mississippi Department of Revenue has issued guidance that it will not use any changes in employees' "temporary work locations due to the pandemic to impose nexus or alter apportionment of income for any business while temporary telework requirements are in place." (Mississippi Department of Revenue Response to Requests for Relief, Mississippi Department of Revenue, 03/26/2020.)	No guidance or response.
MO	No guidance or response.	No guidance or response.
MT	Survey response. The Montana Department of Revenue replied: "Regarding COVID-19 and employees temporarily or permanently working in this state, there are no Montana changes for corporate income tax nexus." (Email from Montana Department of Revenue to Checkpoint Catalyst, 05/19/2020.)	No sales tax.
NE	Survey response. The Nebraska Department of Revenue replied that the agency "has not made any changes reflecting a different position" for income tax nexus "due to COVID-19." (Email from Nebraska Department of Revenue to Checkpoint Catalyst, 06/02/2020.)	Survey response. The Nebraska Department of Revenue replied that the agency "has not made any changes reflecting a different position" for sales and use tax nexus "due to COVID-19." (Email from Nebraska Department of Revenue to Checkpoint Catalyst, 06/02/2020.)
NV	No guidance or response (commerce tax).	No guidance or response.
NH	Survey response. The New Hampshire Department of Revenue replied that it "does not have a position on this question to share with you at this time." (Email from New Hampshire Department of Revenue to Checkpoint Catalyst, 05/19/2020.)	No sales tax.
NJ	Formal guidance. The New Jersey Division of Taxation issued guidance that, "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." (Tele-Commuting and Corporate Nexus, New Jersey Division of Taxation, 03/30/2020.)	Formal guidance. The New Jersey Division of Taxation issued guidance that it "will temporarily waive the sales tax nexus standard which is generally met if an out-of-state seller has an employee working in this state. Thus, as long as the out-of-state seller did not maintain any physical presence other than employees working from home in New Jersey and is below the economic thresholds the Division will not consider the out-of-state seller to have nexus for sales tax purposes during this time period." (New Jersey Telecommuter COVID-19 Employer and Employee Frequently Asked Questions, 05/06/2020.)

State	Income Tax Nexus and Apportionment	Sales Tax Nexus
NM	No guidance or response.	No guidance or response.
NY	No guidance or response.	No guidance or response.
NC	No guidance or response.	No guidance or response.
ND	<p>Formal guidance: Nexus and apportionment.</p> <p>The North Dakota Office of the State Tax Commissioner has issued guidance concerning employees who are telecommuting from North Dakota as a result of the COVID-19 pandemic, and apportionment of related payroll for purposes of the payroll factor. According to the Tax Commissioner, "if the telecommuting is attributable to a COVID related response and is intended to be temporary, North Dakota will not assert income tax nexus on that basis alone." Similarly, if the telecommuting is attributable to a COVID related response and is intended to be temporary, North Dakota will not require inclusion of that payroll in the numerator of the payroll factor." (COVID-19 Tax Guidance, North Dakota Office of the State Tax Commissioner, 04/15/2020.)</p>	No guidance or response.
OH	<p>Survey response (commercial activity tax).</p> <p>The Ohio Department of Revenue replied that "under current law, the Department does not have the authority to waive nexus" for commercial activity tax purposes "for companies with employees temporarily working in Ohio due to the COVID-19 pandemic." (Email from Ohio Department of Revenue to Checkpoint Catalyst, 05/19/2020.)</p>	<p>Survey response.</p> <p>The Ohio Department of Revenue replied that "under current law, the Department does not have the authority to waive nexus" for sales and use tax purposes "for companies with employees temporarily working in Ohio due to the COVID-19 pandemic." (Email from Ohio Department of Revenue to Checkpoint Catalyst, 05/19/2020.)</p>
OK	<p>Survey response.</p> <p>The Oklahoma Tax Commission replied that "corporate income tax nexus is not created if the only activity a corporation has in Oklahoma is an employee temporarily working remotely from home in Oklahoma while the usual work location is closed due to COVID-19." (Email from Oklahoma Tax Commission to Checkpoint Catalyst, 06/02/2020.)</p>	<p>Survey response.</p> <p>The Oklahoma Tax Commission replied that "businesses, not already obligated to collect and remit Oklahoma sales/use tax, whose sole activity in the state is an employee temporarily working remotely from home in Oklahoma because of dislocation due to COVID-19 would not be required to register with Oklahoma for purposes of collection of its sales/use tax." (Email from Oklahoma Tax Commission to Checkpoint Catalyst, 06/02/2020.)</p>
OR	<p>Formal guidance.</p> <p>On July 28, 2020, the Oregon Department of Revenue issued guidance that the presence in Oregon of teleworking employees of a corporation, between March 8, 2020, and November 1, 2020, will not be treated by the Department as a relevant factor when making a corporate excise/income tax nexus determination, if the employees in question are regularly based outside Oregon. (COVID-19 Tax Relief Options, Oregon Department of Revenue, 07/28/2020.)</p>	No sales tax.

State	Income Tax Nexus and Apportionment	Sales Tax Nexus
PA	<p>Formal guidance: Nexus only.</p> <p>The Pennsylvania Department of Revenue issued guidance noting that "Governor Tom Wolf issued a Proclamation of Disaster Emergency on March 6, 2020," and announcing that the agency will not assert corporate income tax nexus solely on the basis of "COVID-19 causing people to temporarily work from home as a matter of safety and public health," for telecommuting "occurring during the duration of this emergency." (Pennsylvania Customer Support Answers—Corporate Nexus, Pennsylvania Department of Revenue, 04/03/2020.)</p>	<p>Formal guidance.</p> <p>The Pennsylvania Department of Revenue issued guidance noting that "Governor Tom Wolf issued a Proclamation of Disaster Emergency on March 6, 2020," and announcing that the agency will not assert nexus solely on the basis of "COVID-19 causing people to temporarily work from home as a matter of safety and public health," for telecommuting "occurring during the duration of this emergency." (Pennsylvania Customer Support Answers—Nexus for Sales Tax, Pennsylvania Department of Revenue, 04/03/2020.)</p>
RI	<p>Formal guidance: Nexus and apportionment.</p> <p>The Rhode Island Division of Taxation issued guidance establishing that, "for the duration of Rhode Island's COVID-19 state of emergency," the Division will not assert nexus for Rhode Island corporate income tax purposes "solely because an employee is temporarily working from home during the state of emergency, or because an employee ... is using property to allow the employee to work from home (e.g. computers, computer equipment, or similar property)." Nor will services performed by such employees in Rhode Island, of itself, "cause their employer to lose the protection of Public Law 86-272." For apportionment purposes, "for the duration of Rhode Island's COVID-19 state of emergency, services performed by one or more employees, who previously worked in another state but, solely due to COVID-19, are now working remotely from Rhode Island," will not increase the numerator of their employer's payroll factor. A related emergency regulation on personal income tax withholding has been extended through November 18, 2020. (Rhode Island Advisory No. 2020-24, Rhode Island Division of Taxation, 05/28/2020; R.I. Reg. 280-RICR-20-55-14.)</p>	<p>Formal guidance.</p> <p>The Rhode Island Division of Taxation issued guidance establishing that, "for the duration of Rhode Island's COVID-19 state of emergency, the Division will not seek to establish nexus for Rhode Island sales and use tax purposes solely because an employee is temporarily working from home during the state of emergency, or because an employee ... is using property to allow the employee to work from home (e.g., computers, computer equipment, or similar property) temporarily during the state of emergency." This policy is predicated on the condition that the business does not otherwise have a physical presence or sufficient sales into the state to establish nexus for Rhode Island sales and use tax purposes. (Rhode Island Advisory No. 2020-24, Rhode Island Division of Taxation, 05/28/2020.)</p>
SC	<p>Formal guidance: Nexus and apportionment.</p> <p>The South Carolina Department of Revenue issued guidance that the agency will not use changes in an employee's temporary work location due to the remote work requirements arising from, or during, the coronavirus (COVID-19) relief period (March 13, 2020, through December 31, 2020) as "a basis for establishing nexus (including for Public Law 86-272 purposes) or altering apportionment of income." (South Carolina Information Letter No. 20-24, 08/26/2020; South Carolina Information Letter No. 20-11, South Carolina Department of Revenue, 05/15/2020; News Release: COVID-19 Related Tax Relief Due Dates Approaching, South Carolina Department of Revenue, 05/28/2020.)</p>	<p>Formal guidance and survey response.</p> <p>The South Carolina Department of Revenue issued guidance that the agency will not use changes in an employee's temporary work location due to the remote work requirements arising from, or during, the coronavirus (COVID-19) relief period (March 13, 2020, through December 31, 2020) as "a basis for establishing nexus (including for Public Law 86-272 purposes) or altering apportionment of income." (South Carolina Information Letter No. 20-24, 08/26/2020; South Carolina Information Letter No. 20-11, South Carolina Department of Revenue, 05/15/2020; News Release: COVID-19 Related Tax Relief Due Dates Approaching, South Carolina Department of Revenue, 05/28/2020.) Checkpoint Catalyst received informal confirmation from the agency that this temporary nexus relief extends to the sales and use tax. (Email from South Carolina Department of Revenue to Checkpoint Catalyst, 06/02/2020.)</p>

State	Income Tax Nexus and Apportionment	Sales Tax Nexus
SD	No corporate income tax.	<p>Survey response.</p> <p>The South Dakota Department of Revenue replied that the agency "does not offer a blanket waiver of physical presence or nexus for companies that may have an employee working remotely in South Dakota because of the Covid-19 pandemic. However, we understand that there may be instances when it would make sense to do so. The Department looks at each situation on a case by case basis and uses the facts presented to make a determination. If you have a client that has an employee working remotely in South Dakota because of the pandemic, please have them present the facts and a decision can be made based on those facts." (Email from South Dakota Department of Revenue to Checkpoint Catalyst, 05/20/2020.)</p>
TN	<p>Survey response.</p> <p>The Tennessee Department of Revenue replied that it "does not have a developed position" on the corporate income tax nexus implications of employees temporarily telecommuting due to COVID-19 and "has not received any questions about it from taxpayers." The agency indicated that it "anticipates continuing to update its COVID-19 related guidance available on its webpage as questions arise." (Email from Tennessee Department of Revenue to Checkpoint Catalyst, 05/22/2020.)</p>	<p>Survey response.</p> <p>The Tennessee Department of Revenue replied that it "does not have a developed position" on the sales and use tax nexus implications of employees temporarily telecommuting due to COVID-19 and "has not received any questions about it from taxpayers." The agency indicated that it "anticipates continuing to update its COVID-19 related guidance available on its webpage as questions arise." (Email from Tennessee Department of Revenue to Checkpoint Catalyst, 05/22/2020.)</p>
TX	<p>Survey response (franchise margin tax).</p> <p>The Texas Comptroller replied, "We are not making a blanket determination. Based on current rules, we will evaluate on a case by case basis." (Email from Texas Comptroller to Checkpoint Catalyst, 05/21/2020.)</p>	<p>Survey response.</p> <p>The Texas Comptroller replied, "We are not making a blanket determination. Based on current rules, we will evaluate on a case by case basis." (Email from Texas Comptroller to Checkpoint Catalyst, 05/21/2020.)</p>
UT	<p>Survey response.</p> <p>The Utah State Tax Commission replied, "There has been no direction from the Utah Legislature that there is or will be a nexus waiver" for corporate tax. "That could change should the Utah Legislature make changes in any special legislative session that is called." (Email from Utah State Tax Commission to Checkpoint Catalyst, 05/19/2020.)</p>	<p>Survey response.</p> <p>The Utah State Tax Commission replied, "There has been no direction from the Utah Legislature that there is or will be a nexus waiver" for sales and use tax. "That could change should the Utah Legislature make changes in any special legislative session that is called." (Email from Utah State Tax Commission to Checkpoint Catalyst, 05/19/2020.)</p>
VT	<p>Survey response.</p> <p>The Vermont Department of Taxes replied, "We have no intention of changing our audit program or focusing audit inquiries to identify workers working temporarily from home during the COVID-19 emergency." (Email from Vermont Department of Taxes to Checkpoint Catalyst, 05/19/2020.)</p>	<p>Survey response.</p> <p>The Vermont Department of Taxes replied, "We have no intention of changing our audit program or focusing audit inquiries to identify workers working temporarily from home during the COVID-19 emergency." (Email from Vermont Department of Taxes to Checkpoint Catalyst, 05/19/2020.)</p>

State	Income Tax Nexus and Apportionment	Sales Tax Nexus
VA	<p>Survey response.</p> <p>The Virginia Department of Taxation replied, "Virginia has not changed its policy with respect to the application" of its corporate income tax nexus rules. "Therefore, Virginia's existing rules with respect to nexus continue to apply.... Any information relating to COVID-19 relief or changes to Virginia's nexus rules would be published on the Virginia Tax website in the future." (Email from Virginia Department of Taxation to Checkpoint Catalyst, 05/20/2020.)</p>	<p>Survey response.</p> <p>The Virginia Department of Taxation replied, "Virginia has not changed its policy with respect to the application" of its sales and use tax nexus rules. "Therefore, Virginia's existing rules with respect to nexus continue to apply.... Any information relating to COVID-19 relief or changes to Virginia's nexus rules would be published on the Virginia Tax website in the future." (Email from Virginia Department of Taxation to Checkpoint Catalyst, 05/20/2020.)</p>
WA	No guidance or response (business and occupation tax).	No guidance or response.
WV	No guidance or response.	No guidance or response.
WI	<p>Survey response.</p> <p>In response to the question posed by Checkpoint Catalyst—whether the Department would "waive corporate excise tax nexus for companies that do not otherwise have nexus and whose employees are temporarily working in the state due to the COVID-19 pandemic?"—the Wisconsin Department of Revenue replied, " yes." (Email from Wisconsin Department of Revenue to Checkpoint Catalyst, 05/21/2020.)</p>	<p>Survey response.</p> <p>In response to the question posed by Checkpoint Catalyst—whether the Department would "waive corporate sales and use tax nexus for companies that do not otherwise have nexus and whose employees are temporarily working in the state due to the COVID-19 pandemic?"—the Wisconsin Department of Revenue replied, " yes." (Email from Wisconsin Department of Revenue to Checkpoint Catalyst, 05/21/2020.)</p>
WY	No corporate income tax.	No guidance or response.