

Rhode Island Department of Revenue

Division of Taxation

280-RICR-20-55-14

Brief Statement of Reason for Finding Imminent Peril

In response to the Governor's state of emergency declaration on March 9, 2020, as well as states of emergency declared by other states and the federal government, Rhode Island and other states, along with many private employers, have implemented work-from-home (i.e., remote working) requirements for their employees to practice social distancing and minimize the spread of COVID-19. In Rhode Island and other states, employers withhold state taxes from the wages of their employees who work within the employer's state's boundaries. As a result of the remote working requirements, many employees now receive wages for work performed on behalf of their employers but performed at locations outside the state where their regular workstations were previously located.

Rhode Island statutory law requires “[e]very employer...transacting business within this state and making payment of any wages subject to Rhode Island personal income tax to a resident or nonresident individual shall deduct and withhold from the wages...tax...in...an amount... reasonably estimated to be due...from the inclusion in the employee's Rhode Island income of his or her wages received...” R.I. Gen. Laws § 44-30-71(a). Rhode Island regulatory law provides that “[a] Rhode Island employer must withhold Rhode Island income tax from the wages of an employee if: (a) [t]he employees' wages are subject to Federal income tax withholding, and (b) [a]ny part of the wages were for services performed in Rhode Island.” 280-RICR-20-55-10.6(C)(1).

Given the temporary nature of the COVID-19 State of Emergency and the remote-working assignments, confusion, extra costs, and concerns may arise among employers and employees if employers have to withhold and remit out-of-state taxes for employees who are working remotely outside the State where their employer is located. In light of the foregoing, the Division of Taxation concludes that it is in the best interests of the public and the interests of the economy to temporarily simplify the tax withholding process with regard to remote working to promote stability, avoid further confusion in the marketplace, and reduce administrative burdens on public and private employers. Furthermore, the Tax Division concludes that an imminent peril to the public health, safety, and welfare requires the immediate promulgation of an emergency regulation, without prior notice or hearing, to introduce a degree of stability and certainty among the public, employers, employees, and tax professionals regarding Rhode Island income tax withholding requirements during the COVID-19 State of Emergency.