



This Week in State Tax (TWIST)

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NEW JERSEY



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New Jersey: Guidance Released on Retroactive Convenience of the Employer Rule

The New Jersey Division of Taxation recently posted guidance on its website addressing the state's new convenience of the employer rule, which is effective retroactive to January 1, 2023. Under the convenience of the employer rule, a nonresident taxpayer's employee compensation from a New Jersey employer for the performance of personal services is sourced to the employer's location (New Jersey) if the employee is working from an out-of-state location (e.g., at home in their resident state) for their own convenience rather than for the necessity of their employer. The New Jersey rule applies only to employees who are residents of states that also impose a similar test (e.g., Connecticut, Delaware, Nebraska, New York, and Pennsylvania). Although Pennsylvania has such a rule, the new law does not apply to Pennsylvania residents who work in New Jersey, as there is a Reciprocal Agreement in place with the Commonwealth. Further, the convenience of employer sourcing rule also does not apply to Connecticut residents who work in New Jersey, based on New Jersey's understanding that the similar Connecticut convenience rule does not apply to New Jersey residents who work in Connecticut. The Division intends to coordinate with the Connecticut Department of Revenue Services and issue further guidance for clarification.

In its recent guidance, the Division reminds taxpayers that the rule is retroactive and advises that affected taxpayers must begin withholdings and/or making estimated payments for Tax Year 2023 as soon as possible. Taxpayers are required to have proper tax paid in by April 15, 2024. Employers should consider adjusting withholdings to ensure that employees are not underpaid. The Division will not impose penalty and interest if the taxpayer begins complying with the new law as of September 15, 2023. Please contact [John Montgomery](#) with questions on the rule.

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