

Remote Employees Without Minimum Connections to New Jersey Not Subject to State's New Convenience of the Employer Rule

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The New Jersey Division of Taxation has clarified that its newly enacted "convenience of the employer" rule – which allows New Jersey to tax income earned by remote (i.e. non-New Jersey) employees – will generally only apply to employees who have minimum connections with New Jersey through the performance of some physical work within the state during the calendar year. The Division of Taxation clarified various issues pertaining to the convenience of employer rule via recently released [frequently asked questions \(FAQs\)](#).

Previously, the Division had already issued guidance stating that the new rule applies only to residents of states that impose similar tests impacting New Jersey residents, which is currently Alabama, Delaware, Nebraska and New York ([New Jersey's Convenience of Employer Rule Applies to Alabama, Delaware, Nebraska and New York; Not to Pennsylvania and Connecticut \(14 Aug. 2023\)](#)).

However, according to the FAQs, a minimum connection will also generally be required for taxation. As a result, wages of residents of Alabama, Delaware, Nebraska and New York are not allocated to New Jersey if the employee does not physically work in New Jersey at some point during the calendar year, even when they are employed by a New Jersey employer.

The FAQs also clarify:

- how a non-resident employee working for a New Jersey company qualifies as an exception from the rule;
- how a New Jersey employer is defined for withholding purposes;
- whether an employer with multiple offices in several states, including New Jersey, that employs a resident of Alabama, Delaware, Nebraska or New York, is considered a New Jersey employer; and
- whether wages earned by Alabama, Delaware, Nebraska and New York resident employees are allocated to New Jersey if the employer has offices in several states, including New Jersey, and the employee works from all these locations, in addition to working from home in their home state.

New Jersey's convenience of the employer rule is effective for tax years beginning on and after 1 January 2023 ([New Jersey Adopts Convenience of the Employer Rule, Offers Tax Credits for Resident Remote Workers Challenging Taxes Paid to Other States \(25 July 2023\)](#)).

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