



AICPA Recommendations for 2021 Administrative, Filing and Payment Relief for State and Local Taxes during the Coronavirus Pandemic

The AICPA encourages state CPA societies to advocate for fair, reasonable, and administrable tax rules that minimize the complexities and burdens to taxpayers and state tax authorities alike.

To assist state CPA societies, the AICPA identified the below [list of administrative, filing, and payment relief for state and local taxpayers in response to the COVID-19 pandemic](#). AICPA is also updating a [state tax guidance chart](#) and has developed an [AICPA PPP State Tax Treatment Chart](#) (available to AICPA members) and a [sample client letter on telework state tax issues](#) (available to AICPA Tax Section members). AICPA [press release](#) on AICPA/Harris Poll survey on state taxes and remote working. There is a [CNA risk alert](#) on the issue. AICPA submitted letters to Congress in support of [S. 3995](#) on the remote worker issue in [June 2020](#), [July 2020](#), and [August 2020](#) with a coalition letter with 120 organizations, including 45 state CPA societies.

Tax practitioners responsible for preparing federal, state, and local tax returns of taxpayers are now required to telework and, in many cases, shelter in place to prevent the spread of COVID-19. The unique and unprecedented nature of this crisis makes many deadlines and administrative practices traditionally required by state and local tax administrators unworkable.

The below list outlines [recommendations](#) that state and local tax administrators should provide to assist taxpayers, businesses, and governments during the next few months, as taxpayers in the state adapt to the limitations this disruption presents.

During the pandemic, state and local jurisdictions should:

- 1. Permit businesses to adhere to work locations for state and local tax purposes during the pandemic and allow businesses the option to use these employees' work locations for payroll withholding, nexus, and apportionment purposes while such telework requirements are in place.**
 - a. *Provide that the presence of an employee working in a state due to shelter-in-place restrictions will not create nexus for tax purposes in that state unless the business elects otherwise.*
 - Example: 18 states - [AL](#), [CA](#), [DC](#), [GA](#), [IA](#), [IN](#), [MA](#), [MD](#), [ME](#), [MN](#), [MS](#), [ND](#), [NJ](#), [OR](#), [PA](#), [RI](#), [SC \(through 6/30/21\)](#), and [WI](#), and [City of Philadelphia](#)
 - b. *Provide the option for newly remote workers sheltering in place to continue to have the business withhold income tax based on the state where the employer is located (not where the employee is sheltering in place during the pandemic) for state and local payroll tax purposes, including personal income tax withholding by the employer and employee income tax liability. This treatment would help prevent a double tax where one state uses the convenience of employer test to source wage payments and the other state uses the physical presence standard. State and local jurisdictions should:*
 - Allow businesses to continue to withhold income tax in the state where employer is located (not employee).

- *Allow the employee who is temporarily telecommuting to continue to pay tax to the state where employer is located.*
 - Examples: 15 states - [AL](#), [GA](#), [IL](#), [IN](#), [MA](#), [MD](#), [ME](#), [MN](#), [MS](#), [NE](#), [NJ](#), [PA](#), [RI](#), [SC \(through 2020\)](#), and [WI](#), and [City of St. Louis](#)
 - Note: [NY FAQ](#) – If you are a nonresident whose primary office is in New York State, your days telecommuting during the pandemic are considered days worked in the state unless your employer has established a bona fide employer office at your telecommuting location.
 - Note: [7 states](#) - with pandemic guidance of withholding to the state from where employee is telecommuting (i.e., employee’s home state) - CA, CO, IA, KY, MO, OR, VT
- c. *Provide that newly remote workers because of COVID-19 will not count against companies taking P.L. 86-272 positions unless the business elects otherwise.*
- Example: 8 states - [CA](#), [DC](#), [GA](#), [IN](#), [IA](#), [MA](#), [ME](#), and [RI](#)
2. **Waive interest and penalties and provide broad reasonable cause relief for late payment and late estimated payment and late filing for returns originally due 3/1/20-7/15/20 that are filed and paid by 10/15 and other delays and late actions as a result of the pandemic.**
 - Example: [Minnesota](#)
 3. **Permit secure electronic fund transfers for payments with no additional fees** (instead of paper checks).
 - Example: [Delaware](#), [Mississippi](#)
 4. **Permit electronic images (scanned or photographed) of signatures** (instead of wet signature requirements) for returns (and other documents, including a Power of Attorney).
 - Examples: 16 states - [AZ](#), [CA \(extended until 6/30/21\)](#), [DC](#), [GA](#), [IA](#), KS, [MA](#), [MD](#), [MI \(MI Treas.\)](#), [MS](#), [NE](#), [NJ](#), [NY \(esig on efile auth.\)](#), [OH](#), [PA](#), [RI \(IRS memo, IRS memo 12/11/20 extending through 6/30/21\)](#), permanent legislation on e-file authorizations – [NY](#)
 - [AICPA resources](#) on state tax related e-signatures and electronic submissions
 - Information on e-signatures and related issues [practitioners’ needs](#) , [AICPA recommendations](#) to state societies and [map of states’ guidance](#)
 - [AICPA Chart on COVID-19 Impact on 2019 State Income Tax Return Signature Requirements](#)
 - [Model language for guidance on electronic signatures for state returns](#)
 - [Model LEGISLATIVE language on electronic signatures, e-file authorizations, and electronic submissions and attachments for state returns](#)
 5. **Provide automatic acceptance into the state electronic filing program if accepted by the IRS** and do not require a separate signature authorization form other than the IRS Form 8879 series.

- **Examples:** 12 states do not require a signature form unique to that state when e-filing an individual tax return (Form 1040) - CT, FL, [GA](#), KS, ME, MN, MT, NH, NC, OH, TN, TX, (Kansas City and St. Louis, MO, KY cities, MI cities, MI business tax, some OR cities including Portland, OH cities, PA cities including Philadelphia and Pittsburg)
6. **Permit electronic filing and secure email transmission of documents and returns** (including allowing an email of a PDF of a return).
 - Example: [Delaware](#) (business returns must efile), [Georgia](#), [Maryland](#), [Mississippi](#), [New York](#)
 7. **Accept alternatives instead of attachments to paper returns.**
 - a. *In lieu of complete Schedules K-1, accept a consolidated summary of the partners' share of Schedule K-1 line items, Schedules K-1 on an external digital storage media device, or Schedules K-1 securely e-mailed to a person at the Department.*
 - b. *Regarding federal return attachments, accept a state return without the federal return attached, or allow the taxpayer to attach a single statement to state returns that states "federal return and Schedules K-1 available upon request," or allow federal returns and Schedules K-1 to be submitted on an external digital storage media device or securely emailed to someone at the Department.*
 8. **Suspend any requirement to send items and returns via certified mail.**
 - Example: [Mississippi](#)
 9. **Extend the time to file a refund claim for a previous tax year with a statute of limitation that expires from 3/1/20 until 90 days after the end of the Governor's declared state of emergency in the state.**
 - Example: [California](#), [Georgia](#), [Kentucky](#), [New Jersey](#), [Oregon](#)
 10. **Provide taxpayers with extensions until 90 days after the end of the Governor's declared state of emergency in the state for audit, exams, appeal deadlines, protest matters, refund claims for previous years and stop during the pandemic all enforcement type activity and automated notices as many of these situations require time sensitive response.**
 - Examples: [Georgia](#), [Indiana](#), [Maryland](#), [Minnesota](#), [Mississippi](#), [Pennsylvania](#)
 11. **Provide an exemption from sales and use tax for donated products, including donations of Personal Protective Equipment (PPE), to a charity or governmental entity.**
 - Example: [Indiana](#), [Michigan](#), New Jersey ([considering legislation](#))
 12. **Provide one additional month state filing after federal filing (including extensions) penalty relief.**
 - **Examples:** 6 states (Delaware, Idaho, [Kansas](#), [Maine](#), [New Jersey](#), [Oregon](#), and [Vermont](#)) are providing automatic penalty relief for corporations that file by 11/16/20.
 - 10 states (Alabama, Georgia, Mississippi, Missouri, Nebraska, North Carolina, [Rhode Island](#), Tennessee (also [one additional month proposed legislation](#)), Utah, and West Virginia) are providing case by case relief upon request for corporations that file by 11/16/20.

- 4 states (AZ, IA, NY, OR) are providing extensions beyond 11/16/20 - [Oregon](#) (100% penalty relief for 2019 returns for personal income, corporate income, and corporate excise. 100% penalty waivers on 2019 income tax due from businesses that are impacted by COVID-19, 100% interest waivers on 2019 income tax due from small businesses that are impacted by COVID-19 and that have less than \$5 million in gross receipts, continuing to provide extended payment plans of up to 36 months for any taxpayer impacted by COVID-19 when entering into an approved payment plan.) [Iowa](#) (7/31/20 returns automatically extended 6 months until 1/31/21 if paid 90% taxes due by 7/31/20). [Arizona](#) corporate and individual extended returns are due by 1/15/21 (and fiduciary returns by 12/30/20) if a federal extension from 7/15/20 was filed, but if efilings, return should be efiled by 10/15/21 as AZ system linked to federal efile system that often shuts down after 10/15/21. New York provides corporate extensions until 4/15/21 [upon filing extension requests](#).

13. Provide guidance on state conformity to federal treatment on Paycheck Protection Program (PPP) tax treatment of loan forgiveness and deductibility of expenses.

NOTE: Guidance may be needed on fiscal years and also when the forgiveness is excluded and expenses are not deductible, states should provide guidance on the reporting when expenses and loan forgiveness are in different years. Guidance may be needed on timing rules for when each is in different years and on the effect to various state tax credits when the disallowed deductions are part of the calculation. Regarding fiscal year taxpayers (for example, if a taxpayer has a FY 11/1/2019 – 10/31/2020, and has a PPP loan forgiven prior to 10/31/2020), guidance may be needed on how the state’s conformity impacts the treatment of the forgiveness and expenses.

(For issued PPP state tax guidance chart, see [AICPA PPP State Tax Treatment Chart](#))

- Examples: **PPP loan forgiveness not included in taxable income:**
 - **Conform:** 23 states - [AL](#), [CA](#), [CT](#), DC (temporary), [HI](#), [IA](#), [IN](#), [KY](#), [LA](#), [MA](#) (corporate tax), MS, [MT](#), [NC](#), [NE](#), [NY](#), [OH](#) (CAT), [OR](#) (CAT), [PA](#) (corporate), [SC](#), [TN](#), UT, [WA](#) (for B&O tax), [WI](#) (for PPP1 loans). (Note: 2 states introduced legis: [NJ](#) ([A4186/S3234](#)), [WA](#) (for B&O tax - [HB 1002](#), [HB 1095](#)))
 - **Not conform** – 5 states - [MA](#) (individual), [MN](#), [NH](#), [PA](#) (individual), [WI](#) (for PPP2 loans) (Note: 1 state introduced legis: [ME](#) ([2021 Supplemental Budget Change Packet, Part V](#) add back equal to expense deduction)
- Examples: **PPP loan expenses deductible:**
 - **Conform:** 6 states - [AL](#), [MA](#) (individual tax), MS (deductible to the extent allowed for federal - [H.B. 1748 \(2020\)](#)), [NH](#), [NY](#), [PA](#) (individual), [SC](#) (Note: 2 states introduced legis: [CA](#) ([AB-281](#)), [NJ](#) ([A4186/S3234](#)))
 - **Not conform** – 6 states – [CA](#) (but [CA](#) introduced legis [AB-281](#) would provide conformity), [KY](#), [MA](#) (corporate – note that guidance was issued prior to the federal enactment of CAA 2021), [NC](#), [PA](#) (corporate), [WI](#)

Note: [TEI](#) and [COST](#) support many of these recommendations.

As of: 1/29/21 9 am et