

Philadelphia Wage Tax policy guidance for non-resident employees in the era of remote work

UPDATED October 12, 2023

One of the most significant changes brought about by the COVID-19 pandemic has been the widespread adoption of hybrid work policies by employers. In general, hybrid work policies offer a blend of remote and on-site working arrangements. As a result of the increase in more flexible forms of working, the Department is issuing updated Wage Tax guidance to assist employers and employees in understanding the application of its “Requirement of Employment” policy to hybrid work arrangements.

This guidance does not supplant prior guidance published during the pandemic; our policy has not changed. This document provides additional guidance in conjunction with previously published documents.

Philadelphia’s Requirement of Employment Policy

The compensation of non-resident employees who perform work for Philadelphia-based employers is not subject to Philadelphia Wage Tax during the time they are **required** to work remotely from a location outside Philadelphia, including working from home. This is referred to as the Department of Revenue’s “Requirement of Employment” policy. If an employer allows an employee to work from home, at the convenience and discretion of the employee, the employee’s compensation will be subject to Wage Tax.

The Department did not change its Wage Tax policy during the COVID-19 pandemic. This is a long-standing policy.

Examples of hybrid work arrangements

The following examples are provided to illustrate the Department’s “Requirement of Employment” policy:

- 1) A non-resident employee is employed by a Philadelphia-based accounting firm. The accounting firm requires the employee to work at a client’s site in Montgomery County two days each week.

Conclusion: The employee is not subject to Wage Tax for the days worked at the client’s site and the employer can modify Wage Tax withholding.

- 2) A non-resident employee is employed by a Philadelphia-based accounting firm. The employer allows its employee the option of working from home whenever they choose. The employee has the flexibility to work from home five days a week.

Conclusion: The employee is subject to Wage Tax for the days worked in the accounting firm's Philadelphia office as well as the days worked from home. The employee is performing services from his/her home for their own convenience.

- 3) A non-resident employee is employed by a Philadelphia-based accounting firm. Due to workspace limitations, an employee may be required to work from home of necessity.

Conclusion: Due to the employer's restrictions on the number of available workstations in its Philadelphia office, the non-resident employee is not subject to Wage Tax for the days they are required to work from home. If the employer withholds tax on 100% of the employee's compensation, the non-resident employee may apply for a refund of Wage Tax for the days worked from home.

- 4) A non-resident employee is employed by a Philadelphia-based accounting firm. The employee is assigned (coded) to the accounting firm's Philadelphia office but reports to a national practice of the firm and works entirely from his/her home outside the City in Bucks County. The employee rarely, if ever, comes into the Philadelphia office to work (at most two times per year). The firm's policy is to assign employees to the office closest to their personal residence.

Conclusion: Since the non-resident employee performs all his/her services outside the City (from home), the employee would not be subject to the Philadelphia Wage Tax. The employee is simply assigned to the Philadelphia office for administrative purposes and has no connection to the Philadelphia office beyond that. An employee must have either dedicated work space or the option to work regularly in the Philadelphia office in order to be taxable.

- 5) A non-resident employee is employed by a Philadelphia-based accounting firm. The employer's written policy requires its employees to work in the Philadelphia office two days each week. Employees may come into the office more often if they wish.

Conclusion: The employee is subject to Wage Tax for the days he/she is required to work in the office. However, because the employer's policy allows the employee to come into the office as often as he/she would like (i.e., you have the option to work from home at your convenience), the employee is also subject to Wage Tax for the days worked from home.

- 6) A non-resident employee is employed by a Philadelphia-based accounting firm. The firm's Philadelphia office is not wheelchair accessible. The employee uses a wheelchair. The employer allows the employee to work exclusively from his/her home outside of Philadelphia.

Conclusion: Out of necessity, the employee is obligated to perform their duties from their personal residence outside Philadelphia. The employer has a business purpose for allowing the individual to work from home as a reasonable accommodation under the Americans With Disabilities Act (ADA). The employee is not subject to the Wage Tax for the days he/she works from home.

- 7) A non-resident employee is employed by a Philadelphia-based accounting firm. The employee has a medical condition. The Employer's written policy states that employees with underlying medical conditions are required to work from home but must first provide a doctor's note to their manager.

Conclusion: The employee is not subject Wage Tax for the days he/she works from home. The employer requires employees with underlying medical conditions to work from home. Therefore, the employer's hybrid work policy has a business purpose.

- 8) A non-resident employee with two children is employed by a Philadelphia-based accounting firm. The employee has been unable to find adequate childcare. The Employer's written policy states that employees with childcare issues may only work from home with their manager's approval.

Conclusion: The employee is subject to Wage Tax for the days worked from home. The employer's policy does not establish a work from home requirement. The employee is working from home to care for his/her children and this accommodation benefits the employee. Childcare issues are particular to the employee and the Department considers working from home for childcare reasons to be at the convenience of the employee.

Of course, these examples only represent some hybrid work arrangements. Many different types of hybrid work models have been implemented post-pandemic and may require additional analysis and discussion. Email revenuetaxadvisors@phila.gov.

Wage Tax Refunds

Non-resident employees of Philadelphia employers can request a refund for Wage Tax withheld during the time they were required to perform their duties from outside of Philadelphia by filing a Wage Tax refund petition. The best way to request a refund is online at **tax-services.phila.gov**. Paper forms are available at **phila.gov/revenue**. Taxpayers should expect six to eight weeks for processing.

Employees file for a refund after the end of the tax year and will need to provide documentation:

- A copy of their W-2 form
- A letter from their employer certifying they were required to work from home. The letter, which must be on company letterhead and signed. Find a template for the Employer Certification Letter template at **phila.gov/revenue** under the “Forms & documents” menu.
- Taxpayers who file a paper petition will also need to submit a date and location worksheet. A template can be found at **phila.gov/revenue**

The Commonwealth of Pennsylvania requires all employers, regardless of their location in Pennsylvania, to withhold and remit Wage Tax on behalf of their employees who are Philadelphia residents regardless of where they perform their duties.