



Healthcare tax checkups

Podcast transcripts

Episode 1: Remote workforce issues



Announcer

Hello and welcome to Healthcare Tax Checkups, the KPMG podcast series featuring KPMG tax leaders on emerging and perennial tax issues impacting the healthcare industry. Today's episode is about helping healthcare stay ahead of remote workforce tax issues.



Lori Robbins

Hi everyone, I'm Lori Robbins. I'm the Deputy Tax Industry Leader for KPMG's Healthcare Tax Practice. I am based in Washington D.C., but serve clients across the country and reside in our Washington National Tax Practice. With me today is Dan McGuire. Dan's a partner in our State and Local Tax Practice based in Tysons Corner, Virginia. So just down the road from me. And he serves clients nationally as well. He's been practicing over 25 years and joined us here at KPMG in 2006. Dan works frequently with our healthcare practice and is the partner liaison between our SALT practice and our healthcare higher ed and not-for-profit practices.



Lori Robbins

And Dan, today we're going to talk about issues that many employers are facing with respect to having a remote workforce. We've been working from home for a while now and some of us may continue to do so. So as a result, this is a pretty important topic for discussion right now. First of all, Dan, I'm wondering what sorts of issues you're currently seeing clients grappling with when it comes to remote workforce considerations?



Dan McGuire

Hi Lori, and thanks for hosting today. As you mentioned, ever since the pandemic began back in the February/March timeframe, one of the first things that happened is people started working from home or not working from the office. And for many, many companies that's persisted. And even today it goes on with in some cases no clear end in sight. And what we've started calling work from home, as things progressed, it's really work from anywhere. Because what we've found is it's not just people not going into their normal office and working from their home. They may have a vacation home that they've worked from. They may be working from a relative's house. With a lot of younger folks that are in urban settings, we've seen them work from maybe where their parents live or again a vacation home. So what it's really turned into is not just working from home but we're seeing people work much broader.



Dan McGuire

So when you look at companies... And it really affects all industries, including certainly healthcare. What it means is, where maybe from a brick and mortar standpoint they have a relatively small footprint, now they have employees in some cases all across the country and in some cases all across the world. So it's been a lot of discussion around what to do from a tax standpoint to address kind of that expanding workforce that they have.

 **Lori Robbins**

Got it. Very interesting. So as a not an expert in state and local tax, what does all of this mean from a tax standpoint?

 **Dan McGuire**

There's a concept of nexus and you have to have some presence in a state, whether it's an economic presence or a physical presence, in order for a state to be able to levy their taxes against you. Whether it's an income tax, sales tax, property tax, localities. There's over 10,000 jurisdictions within the U.S. that have some sort of tax so it's very broad from that standpoint. And now that you have employees having that physical presence, typically kind of in a non-COVID world gives you nexus. And the reason I make that distinction is some jurisdictions have... When this first began and people realized that and companies realized that they were going to have people working from home or working in different states, that's when some of the states came out and gave guidance. States like Pennsylvania, District of Columbia, New Jersey, Minnesota. There's a number of states that gave guidance and the consistency is there is no consistency between them.

 **Dan McGuire**

They all really addressed temporarily having people in that state or in that jurisdiction. But the requirements were all different. Whether it was because at that point in time the governor may have ordered all businesses closed, there was a state of emergency, the employers themselves had to close down, employees elected not to go into work for their own personal safety. So all of the restrictions and all of the guidance really differed from state to state. And what we found is even the ending of that, when does that go away? And when will a state now say, "Well, you've had a person here for a period of time, that's enough time so that now you are subject to the taxes in our jurisdiction." And that's going to apply equally to for-profit and non-for-profit companies. So that's something that people are still grappling with today. When do I have a presence that now maybe I need to register? Maybe I need to start charging or collecting taxes in a jurisdiction.

 **Lori Robbins**

So definitely something for our healthcare organization employers to keep on top of. As you know we have both for-profit and not-for-profit healthcare organizations

across the country. And I'm wondering what the difference is in the considerations between those? What should they be looking at differently from their perspectives?

 **Dan McGuire**

That's a great point, Lori. And there are some things that would apply equally, whether it's a for-profit or not-for-profit entity. That presence in a jurisdiction, that physical presence. If there's no other guidance from that state or that jurisdiction and they do have nexus, companies really need to examine, what are we doing in that jurisdiction? As you've had in other podcasts and webcasts, telemedicine has become very common and it's really grown quite a bit throughout this pandemic. So an organization may not have, until this point, a physical presence in a state but they may have been earning revenue from sources within that state. So it's really looking at going back and seeing what that means.

 **Dan McGuire**

For not-for-profits, there's some other considerations. Some states require not-for-profits to separately register in order to qualify under that state's rules as a not-for-profit. So the issue you sometimes run into is now that not-for-profit has an individual or individuals living in a jurisdiction where they hadn't been before, maybe they are providing services in that state that otherwise are taxable. They need to consider whether to go back and go into that state and register and make sure that they're doing all the registrations, requirements to qualify as a not-for-profit. Otherwise, that income that otherwise may not be subject to tax could in fact be taxable to that entity.

 **Lori Robbins**

Dan, this has been very helpful. For our healthcare organizations out there listening, do you have any recommendations that you think they should take or any next steps they should consider?

 **Dan McGuire**

So, Lori, there are a lot of things that we've seen companies do, including certainly in healthcare, that have been helpful in trying to figure out how they're going to deal with these current issues. The first one is just having an open dialogue between groups within the organization. It's bringing together tax, human

resources, payroll, finance and having a discussion around where are there people working today and really the plans for the future. Is this something that's started temporary but could become permanent? And how do we track those employees? If you think about just from an employee standpoint, some of the considerations. We talked about registering in jurisdictions and whether that was required. And really even the states that have given guidance, they're focused on employees that are temporarily there. And again, as we're seeing, some of these temporary presence may go on for the foreseeable future.

 **Dan McGuire**

So it's starting to think about, well, where is that employee's home today? Where do I need to withhold for that employee for their own personal income tax? How about unemployment tax? If I've been paying it in one jurisdiction on their behalf, do I now need to look at a different jurisdiction based on where they are and how long they plan to stay in that jurisdiction? And even the individual employees, Lori, have some considerations they're going to have to make. And oftentimes these questions, even of a personal nature, may go to the tax group. And there are questions like, "I've been in this state now for over six months, what does that do from a personal standpoint?" And a lot of states would say if you're in a jurisdiction more than 183 days then you're at least a statutory resident of the state for that year.

 **Dan McGuire**

So you may have a situation where you're a resident of two different states and you have to go and the recommendation is always to go to their personal

tax provider to talk through those different points and those different considerations. There are tools available and we have software and there's other offerings that are out there in order to help you track where those employees are so that you make sure that you are following all those different requirements and you don't have a situation later where you kind of have to backtrack and figure out what to do from a tax standpoint. It's always better if you can kind of keep those questions in front of you and deal with them ahead of time. It just makes life a little bit easier from that standpoint. Hopefully, we'll get beyond the grasps of COVID in the very near future but between now and when that happens, certainly from a state and local standpoint, there's a lot of things for our for-profit and not-for-profit healthcare clients to consider.

 **Lori Robbins**

Thank you, Dan. Very insightful. I appreciate your perspectives on this. If any of you have any questions or want to speak further about your remote workforce issues, please feel free to contact Dan McGuire or myself or your local KPMG representative and we will be in touch with you regarding what you are currently facing right now. Thank you very much.

 **Announcer**

Thank you for listening to KPMG's Healthcare Tax Checkups podcast series. For more information, visit the Healthcare and Life Sciences homepage. We'll see you next time.

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