

# Timely insights from portfolio managers and industry experts on key financial, economic and political issues.

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## Municipal Bonds

### Supreme Court case could set new precedent on income taxation across state borders

**Boston** - A case on the docket of the U.S. Supreme Court, *New Hampshire v. Massachusetts*, could result in the reallocation of billions of income tax dollars between certain states.

#### Backdrop for New Hampshire's lawsuit

In April 2020, Massachusetts adopted an emergency regulation declaring that nonresidents who commuted to their jobs in the commonwealth *before* the coronavirus pandemic must still pay its 5% income tax. This cross-border income tax would apply, even if they have been working remotely from other states since lockdown orders were imposed.

In response to the emergency declaration, New Hampshire has sued Massachusetts in the Supreme Court. If and when the case is heard — probably not until the next session at the earliest — the court would consider whether the commonwealth may impose income tax on New Hampshire residents who are teleworking from home for employers with primary offices in Massachusetts.

#### Potential to change state taxation policies

This is not just an issue for New Hampshire residents. An estimated 2.1 million U.S. workers who used to commute to their offices across state lines are now working from home — including 300,000 in New Hampshire.

According to Fitch Ratings as of February 18, Connecticut, Hawaii, Iowa and New Jersey have filed a brief supporting New Hampshire. Another 10 states have also filed a brief urging the Supreme Court to take the case "as a matter of original jurisdiction involving a dispute between two states."

If New Hampshire is successful in its lawsuit, there could be some large impacts — both negative and positive — on state tax collections. That's especially true here in the northeast of the country, where commuting to major employment centers is quite common.

- New Hampshire estimates its residents pay \$1.2 billion in Massachusetts income taxes —representing about 4% of the commonwealth's general fund revenue.
- New York would take an even bigger hit —up to 7% of state operating revenue.
- New Jersey, on the other hand, provided roughly \$2 billion in tax credits to residents who work in New York — accounting for about 5% of their state revenues.
- Connecticut credited over \$400 million in taxes to workers commuting out of state, likewise to avoid double taxation of their residents.

#### Migration patterns driven by taxation



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"If New Hampshire is successful in its lawsuit, there could be some large impacts — both negative and positive — on state tax collections."

Even before the pandemic brought telecommuting to office workers everywhere, we were already seeing shifts in population from high tax states to low tax states.

Then in 2020, seven states that have 0% income tax rates — Arkansas, Florida, Nevada, South Dakota, Texas, Washington and Wyoming — saw population growth of 1.2%. Meanwhile, those states with the highest income taxes — top marginal tax rates greater than 7% — experienced a 0.2% decline.

**Bottom line:** We recognize that one year doesn't make a trend. But if New Hampshire wins the case and establishes a new precedent for cross-border income taxation, we expect that the migration from high tax states to low tax states might pick up speed. And that could have even greater implications for how state and local governments generate revenue.

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