

SITING THE FOUNDATION



Remote Workers in Different States

Many employers have shifted to remote work to slow the spread of the novel coronavirus disease 2019 (COVID-19), promote the health and safety of their employees, and in some cases, comply with state executive orders mandating it. Others have been expanding remote work/telework opportunities as a means of capturing key talent that may prefer not to relocate or work in the home office. Based on the current forecast, we can probably expect that remote work arrangements will be part of the new “normal.”

This checklist suggests the key considerations employers should assess before hiring an employee in another state or allowing an existing employee to work remotely from another state.¹

- ❑ **State and local business registration and licensing requirements.** Does the remote work trigger registration and licensing requirements in the telecommuting state? Does the teleworking employee need to be licensed in the telecommuting state? What about city or county requirements?
- ❑ **Applicable zoning/occupancy rules.** Does the remote-work arrangement comply with city or county zoning laws? Is a home occupation permit required?
- ❑ **Additional tax and reporting consequences.** Are there any state or local tax consequences that arise out of the teleworking arrangement? For example, does the employer have any tax and/or withholding obligations, or are there withholding and remittance obligations on behalf of the employee?
- ❑ **Unemployment insurance obligations.** Is there reciprocity, or does the remote-work state require the employer to register for and

pay the unemployment insurance premiums for the employee through that state’s program? Does the employer need to provide any notice to the employee about additional tax or withholding obligations?

- ❑ **Workers’ compensation coverage.** Does the employer’s current workers’ compensation insurance coverage extend to the remote work? Does it require any specific arrangements?
- ❑ **State and local employment laws.** Are there any other state-specific employment laws in the state where the employee is performing services (e.g., residency requirements, reimbursement laws, wage and hour laws, leave laws, etc.)? What about posting requirements?



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If none of these items is an insurmountable impediment to remote work, the employer should update current employee policies and/or individual remote-work agreements appropriately. For example, the employee handbook may need a local addendum or special policy. Likewise, individual remote-work agreements—a best practice that we recommend for memorializing expectations associated with remote work—will typically need to cover more logistical details. These include data security and equipment, security and workplace-injury reporting, limitations on visitors/clients, availability and communications expectations, and timekeeping responsibilities. See [our prior alert](#) for additional details to consider.

¹ This overview, and the discussion it relates to, is focused on work entirely within the United States. There are similar, but additional, considerations for remote work in a different country that are not addressed here.