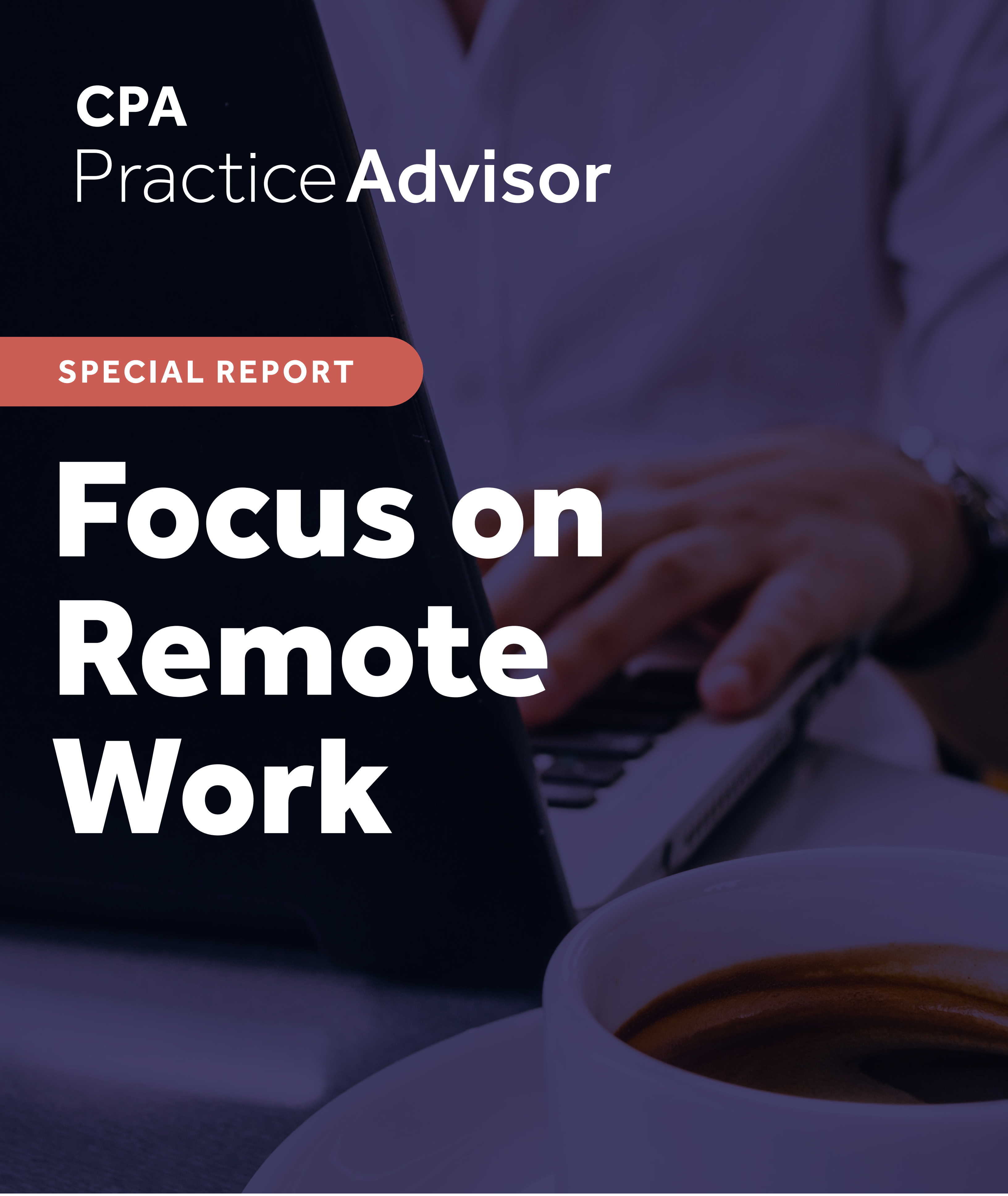

CPA Practice Advisor

SPECIAL REPORT

Focus on Remote Work

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Focus on Remote Work

How has your office culture changed since the pandemic? How have your clients' workplaces changed? Whether existing employees have continued to work remotely, or companies are recruiting specifically for remote employees, the payroll and tax issues are getting more complicated. In this special report we address the concerns, intricacies, solutions, and benefits related to remote, including out-of-state, workers.

Gail Perry, CPA
Editor-in-Chief, CPA Practice Advisor

Special Report: Remote Work

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Remote Work Provides Valuable Lessons to Business Leaders

BY JASON BRAMWELL, SENIOR STAFF WRITER, CPA PRACTICE ADVISOR

Remember when remote and hybrid work arrangements were just a pipe dream for employees stuck in a cubicle all day? That seems like forever ago. COVID-19 changed a lot of things.

"It's the 'next normal' we're headed to, not 'back to normal,' and that, for a lot of companies, is going to feature changes in work practices, changes in employee expectations of their employer, and companies learning from this duress about what they can do to be more effective and efficient and attractive employers," said Joseph Fuller, professor of management practice and co-founder of Managing the Future of Work project at Harvard Business School.

There has been no bigger change to work practices since the start of the coronavirus pandemic than companies having to adapt to remote or hybrid work arrangements. "Success in a hybrid work environment requires employers to move beyond viewing remote or hybrid environments as a temporary or short-term strategy and to treat it as an opportunity," George Penn, vice president of advisory in the human resources practice at consulting firm Gartner, said in an interview with Human Resource Executive.

Before the COVID-19 pandemic, some companies were starting to offer their employees remote work opportunities. A Robert Half survey that came out in January 2020, shortly before the coronavirus hit the U.S. full force, revealed that 47% of the 2,800 office workers who were polled said their employer provided an option to work off-site, and 70% of those respondents said they took advantage of that perk.

At the time, that is how companies viewed work-from-home opportunities for employees—as a job perk, like casual Fridays and gym membership reimbursements. But as the coronavirus spread like wildfire throughout the country during the late winter/early spring 2020, that job perk became a necessity once companies started locking their office doors and made employees' default workplaces their homes.

In March 2020, as lockdowns in the U.S. began, one in 67 jobs was remote. By the start of 2022, the number of work-from-home jobs had inflated to one in six, Business Insider reported. According to more recent data from LinkedIn, nearly one in five paid job postings on the business networking site was for a remote role.

"Return-to-office plans can carry a dangerous subtext," Amy Lavoie, former head of strategic development at LinkedIn who currently is vice president of people success at leadership development platform Torch, said during the summer of 2021. "It may look to employees that, while their leaders had prioritized their well-being and safety in the pandemic's first stretch, they're now focusing on business and advancing their own agenda at all costs, leaving employees' concerns in the wake.

"Employees are looking to their organizations to value their needs as full human beings," she added, "and trust them to make decisions about how, when, and where they work."

"THE PRE-PANDEMIC WORKPLACE IS DEAD"

Almost three years after the COVID-19 pandemic began, remote and hybrid work arrangements have not lost much momentum—in fact, statistics show that hybrid is becoming the new normal in the workplace. Seventy-four percent of U.S. companies are using or plan to implement a permanent hybrid work model, and 63% of high-growth companies have implemented hybrid work arrangements—more specifically, "productivity anywhere" models, which allow their employees to work remotely or in the office depending on their needs that day.

And it is not just staff who enjoy the hybrid work model. A report from Future Forum found that 65% of all workers—nonexecutives and executives—said they would prefer working some of the time from the office and some of the time remotely.

"While both groups want a hybrid approach, executives want to spend more time in the office and less time remotely, while the opposite is true for non-executives. Nearly twice as many executives (38%) say they would prefer to work from the office three to four days a week, compared with 24% of non-executives. And non-executives are more than three times as likely as their bosses to want to work fully remotely," the Future Forum report says. "But leaders who respond to new stressors by pushing for old ways of working—such as issuing top-down mandates designed to return workforces to the flexibility-limiting conventions of the old 9-to-5, five days in the office—are likely to experience resistance from their employees."

Employees are threatening to quit their jobs if forced to return to their cubicles five days a week. According to a recent survey, 64% of workers globally said they have already looked or would consider looking for a new job if their employer wanted them back in the office full time. A different survey revealed that 34% of U.S. workers would consider quitting their jobs if their bosses implemented a return-to-office mandate, while 49% said they would prefer a hybrid work arrangement.

"The message from workers is clear: the pre-pandemic workplace is dead," Miles Everson, CEO of workforce management platform MBO Partners and former global advisory and consulting CEO for PwC, wrote in an article for Fast Company last August. "The rise of hybrid work is here and applies to more than just where a company's employees sit. It also applies to how workers engage with enterprises. To operate in this new hybrid environment, organizations must learn how best to maximize their most valuable asset: their people."

LESSONS LEARNED

While business leaders are starting to welcome staff back to the office in an effort to restore some sense of pre-pandemic normalcy, not all employees will be ready—or willing—to return to the workplace.

"Staying responsive to their needs will be critical," said Paul McDonald, senior executive director at Robert Half.

That's a valuable lesson business leaders have had to learn in the past two or so years. Here are some other ones:

1. **Employees want flexibility:** When employees ask for flexibility, the emphasis is less on location and more so on when—and how—they work.

"It not just that people want to work from their houses—they might have spotty Wi-Fi, and not everyone wants to stare at dirty dishes while they're trying to focus," Nela Richardson, chief economist at ADP, told CNBC last April. "But people have gotten used to having more autonomy over their work the past two years, whether it's being able to pick their kids up from daycare or going to doctor's appointments without having to ask for time off."

> ***Companies are now the ones that have to respond to candidate demands instead of the other way around - a fast shift from market realities just a couple of years ago."***
>
> \- **Dan Chait**, director of client partnerships and recruiting solutions at Vaco

In a recent study published by BMC Psychology, employees said working remotely gives them the opportunity to fit day-to-day household tasks in around their work more easily. In addition, study participants said not having to commute gave them more free time for relaxing, spending time with family, and taking part in hobbies or self-care activities.

One study participant said, "I think there's a number of things that people like, like the flexibility they get in their lives from working from home, like you get up late, you don't need to commute, you don't need to kind of dress as you would for the office, you don't need to think about planning your lunch, you can go out and exercise or go shopping in the middle of the day."

2. **If you do not offer remote or hybrid work options, you will lose top talent to competitors that do:** With the influx of companies implementing permanent remote and hybrid work models, employees or potential employees can choose to pursue opportunities that meet those expectations. As we've seen in the past year or two with the "Great Resignation," the labor market has gone from employer-driven to candidates now holding all the cards.

"Now more than ever, candidates have the keys to drive the market to their liking," said Dan Chait, director of client partnerships and recruiting solutions at staffing firm Vaco. "Companies are now the ones that have to respond to candidate demands instead of the other way around—a fast shift from market realities just a couple of years ago."

He added that a growing number of companies are embracing the benefits of hiring a remote and more diverse workforce, but the companies that maintain rigid policies, like demanding employees work in the office full time, are quickly falling behind in the hiring process.

3. **Employee productivity does not drop working from home:** When the pandemic hit the U.S. and employees started working out of their homes, there was a fear among company executives and managers, who were used to closely monitoring their direct reports in the office, that their staff would be playing video games, doing the latest TikTok trend, or watching "Stranger Things" on Netflix instead of doing their work.

A Microsoft report published last September found that 85% of leaders felt the shift to hybrid work had made it challenging to have confidence that employees were being productive, and 49% of managers of hybrid workers "struggle to trust their employees to do their best work."

"And as some organizations use technology to track activity rather than impact, employees lack context on how and why they're being tracked, which can undermine trust and lead to "productivity theater," the report says. "This has led to productivity paranoia: where leaders fear that lost productivity is due to employees not working, even though hours worked, number of meetings, and other activity metrics have increased."

That same Microsoft report found that 87% of employees said they are more productive working from home, while the Future Forum report revealed that workers who have full schedule flexibility are reporting 29% higher productivity and 53% greater ability to focus than workers with no ability to shift their schedule.

The Microsoft report says, "Leaders need to pivot from worrying about whether their people are working enough to helping them focus on the work that's most important. 81% of employees say it's important that their managers help them prioritize their workload, but less than a third (31%) say their managers have ever given clear guidance during one-on-ones. Solving this issue needs to start at the top: 74% of people managers say more guidance on prioritizing their own work would help their performance, and 80% say they'd personally benefit from more clarity from senior leadership on impactful priorities."

Why are remote employees more productive? For one, they're less distracted—at home, employees can focus on work without the distractions of office communications or colleagues dropping by their desk to chat, according to a blog by staffing agency Workway. Another reason: Remote work allows employees to take control of their own schedule and work when they're best. Morning people can get work done in the morning, for example, while night owls can stay up later to do their best work.

4. **Remote work increases inclusivity:** The BMC Psychology study found that the shift to remote work was seen as a benefit for employees who were perhaps more introverted or uncomfortable with in-person meetings or had neurodiverse conditions causing them to struggle with eye contact and face-to-face interactions, allowing them a safe space to participate and develop more confidence.

5. **Compassion and empathy should be a core part of employee management:** During the pandemic, organizations took conscious steps to listen to what employees were going through and do everything in their power to help, according to a blog by cloud software provider Zoho.

"For instance, some employees were struggling to keep their kids engaged at home while they worked so some organizations organized camps and other activities to keep their employees' kids busy while they focused on work," Zoho said. "Other organizations organized virtual activities with their teams because their employees felt isolated due to remote work. Being supportive of your employees' needs will only improve their morale and motivate them to work better for your organization. Kind and compassionate communication makes an employee more involved as part of their team."

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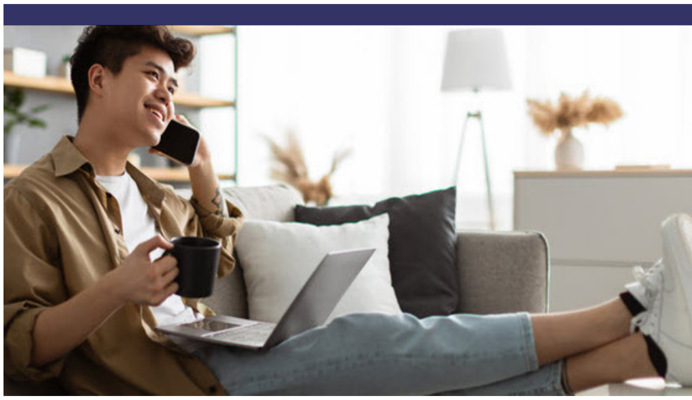
Remote Work: Evolving Tax and Economic Incentives

BY MICHAEL A SMITH, DIRECTOR OF TAX, ADP



Historically, the general workforce has been moving toward the newly-defined flexible and hybrid work arrangements since the full adoption of the laptop computer for many work situations in the 1990s. More recently, the development of and migration to cloud technology made physical servers and established work sites less important and critical to continuous operations. The business community is embracing technology as a means of creating efficiency within the workplace (doing more with less) while employees are simultaneously freeing up previous commutes to spend more time with family, friends, hobbies and other pursuits of happiness. Advancements in technology, specifically including wifi and broadband improvements, have become more accessible among all areas of the population, translating into employees seeking more freedom from assigned work locations.

This evolution in the workforce has led to a number of new trends. Some of these trends include employees who may only work remotely from time to time, to employees who may travel between numerous worksites, as well as employees who are deemed to be full-time telecommuters ("homeshored" or "remote"). The emergence of these scenarios has created some challenges in aspects of the traditional structure of the federal tax system as well as in the various state tax codes. It is also leading to a refinement in some of the worker classification terminology along with the introduction of new and expanded interpretations of existing definitions as they may relate to where a person might perform job functions. Additionally, many states made temporary changes during the pandemic, some of which may become permanent to their tax incentive programs in hopes of addressing the present and future workforce structures.

WHAT IS A REMOTE EMPLOYEE?

The remote worker has been around for decades but continues to gain in acceptance by businesses with the availability of technology and aging workforce demographics. By definition, a remote employee is anyone employed by a company but works outside of traditional office or worksite location. As the economy matures and businesses evolve as it relates to their workforce and human capital assets, employers should consider a few questions to gauge where a company that leverage a hybrid workforce might stand with respect to remote work state and local tax issues:

- What type of remote arrangement is the company implementing?
  - Is it a temporary arrangement to address external events such as the pandemic?
  - Is it simply a single week while the employee managed family matters?
  - Does the company anticipate the arrangement will be permanent?
  - Or does the company anticipate the arrangement to be fixed in duration with a certain end date?
- Will the business require employees to report changes in their work location?
  - Is there a system in place to capture and analyze the impact of this data if it is gathered?
  - Has the business assessed the payroll tax rules in the state where the company is headquartered versus where the employees are working?
  - Are employees moving around, changing permanent residence or continuing short-term location changes (both domestically and internationally)?

Generally, employers must withhold state income tax based on where an employee performs services. If an employer does not withhold taxes based on where the employee performs the services in a worksite, then the employer may withhold taxes based on where the employee resides. This is known as "the Convenience of the Employer" rule. As a result, individuals working for businesses located in states that have adopted the convenience rule are often subject to double taxation as they must pay income taxes in their resident state as well as their employer's state. Subsequent to potential negative result, a few states have started incorporating reciprocity rules that help to eliminate this double taxation.

In addition to the payroll withholding tax rules and tangential compliance needs for human capital assets, many national and local economies are preparing for businesses to more fully support an expanding remote workforce. Despite the rapid acceptance of remote workers in the business world, existing state statutes governing the employment taxation have lagged the growth of telecommuters including rules, regulations and economic development tools for tax credits and incentive programs. The following states are responding more quickly to the needs of a changing and hybrid workforce by building in flexibility to their statutory language and program rules.

ARIZONA

The Arizona Commerce Authority (ACA) made changes to some incentive programs allowing the inclusion of remote workers. Specifically for businesses participating in the "Qualified Facility Tax Credit Program" (A.R.S. Section 41-1512), companies may include remote workers as part of this tax credit if the work being performed is tied to the Arizona location and workers are Arizona residents who are physically located in the state.

KANSAS

Kansas Department of Commerce received approval to include employees who work from home in their incentive programs. For these individuals to qualify, they must pay withholdings to the state of Kansas, appear on the Kansas Department of Labor reports and receive their direction from the project facility located in Kansas. In addition, employees must also meet all other program related requirements.

Of particular note, Kansas provides some additional language and guidance that will help define different remote work types. These definitions include the following:

Flex worker: An employee who works at the Kansas project facility a few days a week and works from home on the other days.

Full-time permanent remote or mobile worker: An employee who works from home and only reports to the Kansas project facility as needed

NORTH CAROLINA

The state of North Carolina has taken initiatives to address the assistance companies may need with the remote / hybrid workforce within the state as businesses expand. For instance, some of the enhanced definition and language for the Job Development Investment Grant (NC GS 143B-437.012) include new definitions such as:

"New Remote Employee" means a Full-Time Employee hired for the Project, assigned to the Facility and **working from a home-office within the State or a satellite location within the State**, who represents a net increase in the number of the Company's employees in North Carolina

"New Employee" means a Full-Time Employee hired for the Project, and **employed at the Facility and reporting there at least four days a month**, who represents a net increase in the number of the Company's employees in North Carolina [over the Retained Employment] and who is not a worker with an H-1B visa or with H-1B status.

OHIO

Similar to Kansas and North Carolina, Ohio has incorporated language that defines what employee payroll and the categories of employees that may be included in the Grants for to Foster Job Creation (Ohio Revised Code Section 122.17) and the Tax Credits to Foster Job Retention (Ohio Revised Code Section 122.171) regulations:

3) "Ohio employee payroll" means the amount of compensation used to determine the withholding obligations in division (A) of section 5747.06 of the Revised Code and paid by the employer during the employer's taxable year, or during the calendar year that includes the employer's tax period, to the following:

(a) An employee employed in the project who is a resident of this state including a **qualifying work-from-home employee not designated as a home-based employee** by an applicant under division (C)(1) of this section;

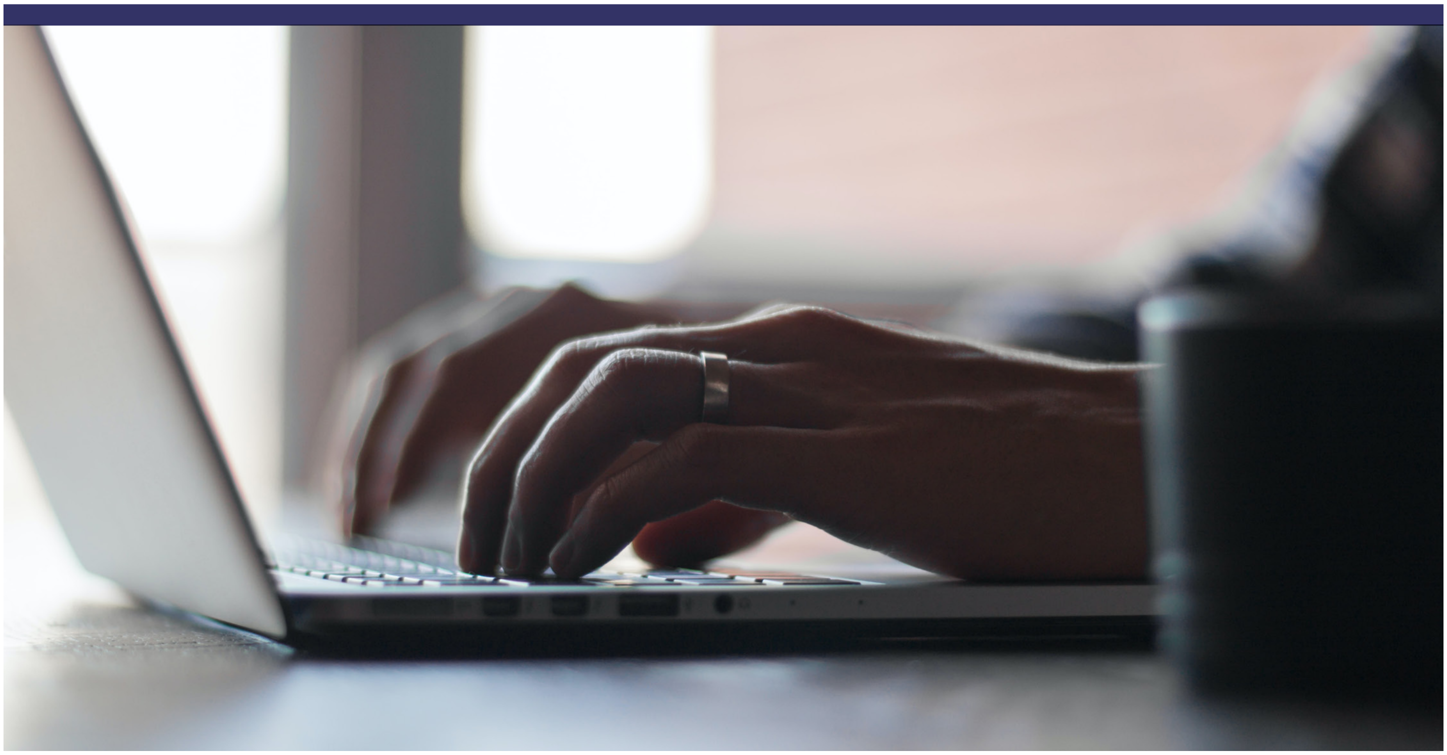
(b) An **employee employed at the project location who is not a resident and whose compensation is not exempt from the tax imposed under section 5747.02** of the Revised Code pursuant to a reciprocity agreement with another state under division (A)(3) of section 5747.05 of the Revised Code;

(c) **A home-based employee employed in the project.**

In summary, the continuing trend of including more remote employees and hybrid workforce arrangements accelerated during the pandemic requires additional focus regarding compliance needs of employers as they embrace the benefits and challenges of remote workers. This trend should continue as technology advances make it easier for employees to perform work functions outside of the typical office setting. With many states entering their prime legislative season at the beginning of this calendar year, it is expected that opportunities will emerge to provide clarification to existing compliance needs to ensure tax revenues are not lost with remote workers, telecommuters, and established work-from-home arrangements. Simultaneously, many states (and perhaps even some local jurisdictions) are expected to create adaptive language to statutes, rules and regulations to assist companies in their growth as this hybrid remote workforce become more of the "new normal" and expected business environment.

5 Compliance Considerations for Companies with a Remote Workforce

BY JASON BRAMWELL, SENIOR STAFF WRITER, CPA PRACTICE ADVISOR



What is a 10-letter word that begins with the letter C that sends shivers down the spines of leaders of companies, both large and small? If you said "compliance," congrats, you get a cookie.

With remote and hybrid work arrangements for employees being the norm rather than the exception these days, compliance challenges for employers have ratcheted up. Now more than ever, business leaders and human resources professionals must have a firm grasp on things like payroll and state employment rules, state and local tax laws, and workers' compensation if their company has employees working remotely throughout the U.S.

"Companies that turn a blind eye to where their employees are actually working could very well be subject to penalties for failure to pay taxes, late fee assessments for late filings, or not having paid wages correctly. Just ignoring these issues doesn't make them go away," Brian Shenker, a principal in the Long Island, NY, office of law firm Jackson Lewis, said in a June 2022 interview. "Small or technical wage and hour violations under the Fair Labor Standards Act (FLSA), for example, can lead to substantial exposure—even class action exposure—so companies need to be aware of these issues."

So as not to be the recipient of litigation from a remote employee who believes they have been wronged, here is an overview of some remote work compliance best practices that companies should consider.

WAGE AND HOUR REQUIREMENTS

Businesses that have nonexempt employees—workers who are entitled to earn the federal minimum wage (currently $7.25 per hour) and qualify for overtime pay—must adhere to timekeeping requirements under the FLSA.

Employers are required to keep records of, among other things:

- Time and day of week when an employee's workweek begins.
- Hours an employee worked each day.
- Total hours an employee worked each workweek.
- The employee's regular hourly pay rate.
- The employee's total overtime earnings for the workweek.

For overtime, Shenker said, "The general rule is that all nonexempt employees are entitled to time and a half for hours worked over 40, and failure to pay that rate or not paying for all hours that were worked, such as issues with off-the-clock work, will result in substantial overtime monies being owed."

A Field Assistance Bulletin issued by the U.S. Department of Labor in August 2020 clarified that compensable time under the FLSA—defined as any hours an employee is requested or allowed to work, including telework or remote work—includes any time during which the employer knows or has reason to believe work is being performed.

However, an employer is not required to pay for work that "it did not know about and had no reason to know about." The key point is whether, through reasonable diligence, the employer should have had actual or constructive knowledge that compensable work was being performed.

Given the compliance hurdles presented by remote work arrangements, the bulletin noted that "one way an employer may exercise such reasonable diligence is by providing a reasonable reporting procedure for nonscheduled time" and then compensate employees for all reported hours of work.

Bottom line: Employers must exercise reasonable diligence by establishing clear expectations regarding an employee's remote work schedule, including whether a flex schedule is being adopted, noted law firm Lewis Brisbois in an August 2020 legal brief. Employers also must develop written timekeeping policies and procedures that address how remote employees should accurately record hours worked, including how to report unscheduled hours.

Companies that do not have timekeeping policies or do not use tools like employee time-tracking software could end up being caught in the middle of an hours-worked dispute.

"If an employer doesn't have records, an employee can say they worked 70, 80 hours in a week. It might not be reasonable, and it might be far from reality, but without contemporaneous time records, the Department of Labor and the courts will likely accept what the employee is saying unless there's specific evidence to the contrary," Shenker said. "So, in combating these potential penalties and wages owed, time records are a key."

Many time-tracking software solutions have clock-in, clock-out functionality, which mimics an in-person office setting. They also calculate hourly totals based on the employer's payroll policies, including overtime, and track changes to hours data to help companies stay compliant with wage and hour regulations.

Also, keep in mind that some states set higher standards for minimum wage and salaries for exempt employees than what is set in the FLSA. If the company is based in one state and a remote worker is in another state, different minimum wage rates may apply, according to a blog by the website The HR Team.

"In many cases, it's determined by the jurisdiction in which employees perform the work. If more than one law covers a worker, generally the law more generous to the employee would apply," the blog states. "For example, if an employee is covered by both a state and local minimum wage, the higher minimum wage would apply."

It is also important for employers to remember that payroll requirements vary by state. According to The HR Team blog post, "Companies will need to stay abreast of applicable state and local filing deadlines, tax rates, and tax changes, in addition to federal laws. State and local laws may also vary when it comes to the information that must appear on paystubs; payday frequency requirements; whether unused, accrued vacation must be paid out upon termination of employment; and pay rules as they relate to the timing of payment of final wages upon separation of employment."

STATE TAX WITHHOLDING

Remote work has made tax withholding a little trickier because if an employee works remotely in another state than the one in which the company is based, where do you withhold taxes?

Most states require businesses to withhold state taxes for the state their employee is doing work in, which is referred to as the physical presence rule. For example, if the company's headquarters is in State 1 but a remote employee works from home in State 2, the company is required to withhold state taxes in State 2, under the physical presence rule, even if the company does not have a physical office there. But there are exceptions, according to Wolters Kluwer.

"Some states that border each other have entered into reciprocal agreements related to allowing an employee who lives in one state but works in a neighboring state to have their withholding tax paid to the work state," Wolters Kluwer said. As of 2022,

> ***"Companies that turn a blind eye to where their employees are actually working could very well be subject to penalties for failure to pay taxes, late fee assessments for late filings, or not having paid wages correctly."***
>
> \- **Brian Shenker**, principal, at Jackson Lewis

16 states—Arizona, Illinois, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Montana, New Jersey, North Dakota, Ohio, Pennsylvania, Virginia, West Virginia, and Wisconsin—as well as the District of Columbia have reciprocal tax agreements in place.

But in other states the law is different. Several states—including Arkansas, Delaware, Nebraska, and New York—have the "convenience of the employer" rule, which says if an employer requires an employee to work out of state of residency, tax withholding is taken only in the state where the employee is based. However, if the employee chooses to work out of state, rather than being required to do so, he or she may be subject to tax in both states—the employer's location and the employee's location. States' interpretations of the law are constantly changing to adapt to how employees are working, Barry Sunshine, CPA, CGMA, a senior tax partner with public accounting firm Janover LLC, said in a February 2022 article for AccountingWEB.

The convenience of the employer rule will determine how much nonresident remote employees will be taxed on their income. For example, a company based in a state that has the rule, like New York, with an employee working remotely from Florida, which does not have the rule, is required to withhold New York state income tax from all wages paid to the employee. However, these rules vary depending on the state, he said.

Many companies are now actively hiring remote employees, some of whom live and work outside of the state where the company has its office. Sunshine said companies must be diligent in keeping track of where their employees perform their services.

"Some companies are finding that they now employ 10 remote employees working from 10 different states. These companies need to review where these employees are performing services to see whether they should be filing state returns in those states," he added.

The convenience of the employer rule only applies to employees, so employers may get a tax break depending on where their remote employees work, Sunshine said. For example, an employer based in a high tax-rate state, such as California or New York, which has employees working remotely from states with lower income tax rates might end up paying less in taxes if most of its employees work from those states.

WORKERS' COMPENSATION

Most states require that businesses provide workers' compensation coverage for their employees. Remote employees can still be covered under workers' compensation if they're injured at home, but the injury must meet certain requirements.

The Occupational Safety and Health Administration said, "Injuries and illnesses that occur while an employee is working at home, including work in a home office, will be considered work-related if the injury or illness occurs while the employee is performing work for pay or compensation in the home, and the injury or illness is directly related to the performance of work rather than to the general home environment or setting."

When employees are working in an office, it is much easier to make sure their workspace is ergonomically compliant. But with remote employees it is harder to monitor, and injuries can occur in the home office, like physical fatigue and neck and back pain from sitting in front of a computer for too long.

Employers can help prevent work-related home injuries by providing employees with the right training, like offering a refresher on proper ergonomics for remote workers or making an ergonomic checklist to share with employees via email or on the company's intranet.

Another recommendation: Employers should document any injury with a written statement from the employee and photos of the injury and job site, if possible. The statement should explain whether the injury happened during employment, which may be less clear if employees are working from home. One key test is whether the activity being performed at the time of the injury provides some benefit to the employer.

UNEMPLOYMENT INSURANCE

According to Wolters Kluwer, if a company has at least one employee who conducts business in a state, then that company is generally required to pay premiums for state unemployment insurance.

"So, if your workplace is situated in State A but an employee or employees work from home in State B, you must generally register with the state unemployment office of State B. A failure to do so may bring penalties for noncompliance," Wolters Kluwer said.

EMPLOYMENT POSTERS

Many federal, state, and local employment laws require employers to display posters in the workplace outlining workers' rights. Depending on the applicable state posting requirement, companies should consider providing postings electronically or to mail hard copies that staff members can post at their remote worksites, according to The HR Team.

Keep in mind that employers must inform employees of where and how to access the posters electronically.

"Posting a notice on a company website or intranet is not sufficient unless the employer already posts similar postings in such a manner on a regular basis," Susan Gross Sholinsky, an attorney in the New York City office of Epstein Becker Green, said in an article by the Society for Human Resource Management. "Posting on an unknown or little-known website is the equivalent of posting a hard-copy poster in an inconspicuous location and fails to meet the federal requirements."

Georgia Tax Incentives Offering

BY MICHAEL A SMITH, CPA CGMA, ADP DIRECTOR OF TAX

Historically, many incentives and tax credits have been offered throughout the country to companies that are growing their respective employee headcount as well as making significant capital investment in physical assets such as plant, equipment, and technology. The overall objective for states and local municipalities is to provide that extra benefit and financial opportunity that may influence a given business to select one physical site or office location over another location for future investment dollars and increased employee count when other factors impacting operating costs and abilities may be more or less equal for that particular company.

While many small to large businesses embrace the concepts of a global economy by having operations or supply chain resources in more than one state or country, the overall workforce has and continues to evolve in the United States from a traditional manufacturing base or site-specific location to a multiple location approach. For example, traditional manufacturers may have only had a single location for the production of their goods and required employees to be in attendance at a particular work site. In a global economy, manufacturer may operate several locations producing differing products or parts of products.

In contrast, employees providing services may have been more adept at functioning in multiple locations. However, with continued advancements in technology such as the data cloud and expansion of broadband networks, many professionals are now able to perform those job functions at remote locations away from the traditional office setting partially or on a fulltime basis.

With companies leveraging multiple worksites and employees working from home or other remote locations more now than ever, many states have had to modify their tax code and incentive programs to accommodate the changing needs of business. The recent pandemic in 2020 and 2021 only accelerated some of these workforce trends and subsequent program changes, many of which are still temporary, although some states may be seeking a more permanent update.

Georgia provides an example of how one state is addressing the issues of the incentives. Incentives are tools for economic development in the State of Georgia since original legislative efforts were passed back in the mid-1990s. Presently, Georgia continues to offer a variety of incentives to assist businesses in locating and prospering within the state. These economic incentives and tax credits may include requirements and qualifications that need to be met and maintained as businesses are applying for and realizing the financial benefits from such programs.

Georgia offers a Jobs Tax Credit for the creation of new fulltime time jobs at worksites ("Establishments") within the state of Georgia. The state requires businesses in most Georgia locations to fall in specific industries such as manufacturing, warehousing & distribution, telecommunications, tourism, processing and research & development industries if they plan to claim the credit. Additionally, qualifying newly created jobs require a physical location with Georgia, a minimum of 35 hours worked weekly, and they must meet a minimum wage threshold and offer for health insurance upon employment. With the evolving workforce trending to a remote setting and telecommuting arrangements and manufacturing occurring in multiple locations, Georgia included some adaptive language for this particular program as noted below:

Per Georgia Rules & Regulations 110-9-1:

(r) **Telecommuter employee job** - *means a newly created position of employment by a Georgia employer only during tax years 2020, 2021 or 2022, requires a minimum of 35 hours worked each week at a location that may not necessarily be at the establishment location*, and pays at or above the average wage earned in the county with the lowest average wage in the most recently available annual issue of the Georgia Employment and Wages Averages Report of the Department of Labor. This does not mean a job classified for federal tax purposes as an independent contractor. This does not include staff replacement or transfer. This does not include telecommuting from out-of-state. The telecommuting employee must live and work in Georgia to qualify for the job tax credit program under this definition.

1) **Current employees who are being counted for the job tax credit program and become telecommuters during the COVID-19 crisis during tax years 2020, 2021 or 2022 may continue to be counted as a qualified job for purposes of the job tax credit program,** as long as all of the requirements including wages, hours, and health insurance are being met while being a telecommuter.
2) **Part-time telecommuter jobs that become full-time jobs shall be considered new full-time telecommuter employee jobs for the purposes of the Job Tax Credit Program** under this special definition. Part-time jobs may not be aggregated to establish full-time equivalents for the purposes of the Job Tax Credit Program

Establishing and creating new jobs is not the only hallmark of successful businesses; a well-trained and competent workforce is also necessary for businesses to prosper. With the Georgia Business Expansion Support Act of 1994, Georgia began offering an additional tax credit for eligible business enterprises that is equal to up to one half of the direct cost of retraining, up to certain dollar thresholds per employee. The purpose of this tax credit is to foster the profitability and competitiveness of existing businesses while helping companies offset these retraining costs while simultaneously enhancing the skills of Georgia employees. The focus area for such an employee retraining program is to primarily cover the use of new equipment and technology by those associates.

To be eligible for the Retraining Tax Credit under Georgia O.C.G.A 48-7-40.5 , a business must provide training for its existing Georgia workforce on new software, technology, machinery or equipment.

Employee eligibility is limited to those employees who:

1. Are Georgia residents
2. Are first-line employees or immediate supervisors
3. Are full time employees
4. Have been continuously employed with the company for a minimum of 16 weeks

For this income tax credit, full-time employees are defined as employed for a minimum of 25 hours per week. This is somewhat different from the Job Tax Credit above which defines a full-time employee as working 35 hours or more per week. Additionally, this credit also specifically indicates that the qualifying employee must be a "current resident" of Georgia. The statute and regulations do not require that the employee must be in attendance at a specific worksite, reflecting a residential presence rather than only worksite options.

As these workforce trends continue, Georgia's General Assembly will convene in early January 2023 and is expected to address and review some of the recent statutory language and regulations. Members of the legislature have indicated that it will most likely be considering whether to extend its current treatment of telecommuters for job tax credit purposes into 2023 and beyond. No changes or additional adaptive language is expected for the employee retraining programs. As detailed above, the state allows telecommuters who are associated with a qualifying establishment but may not work at that physical establishment to be included in a jobs tax credit, so long as they live and work in Georgia.

With companies leveraging multiple worksites and employees working from home or other remote locations more now than ever, many states have had to modify their tax code and incentive programs to accommodate the changing needs of business."

\- **Michael A Smith**, CPA, CGMA, director of tax at ADP

Here is Why Remote Work Still Has a Strong Future

BY JASON BRAMWELL, SENIOR STAFF WRITER, CPA PRACTICE ADVISOR

Even though some business leaders would like to put an end to remote work forever and go back to the way things were before the COVID-19 pandemic, experts predict that work-from-home opportunities will continue to increase this year.

"If you're thinking in terms of 'returning'—returning to the old way, returning to the way the office used to be, returning to what worked for you—then it's time to rethink that direction," said Ryan Anderson, vice president of global research and insights at furniture manufacturer MillerKnoll. "We need to move forward to a new path, and that requires engaging your employees to establish new ways of working together."

The following are some reasons why remote work is not going anywhere anytime soon, much to the chagrin of some company executives.

IT IS GETTING LUCRATIVE

Researchers from Ladders anticipate that 25% of all high-paying jobs—salaries of $100,000 or more—will be available remotely by the end of this year.

"This change in working arrangements is impossible to overhype. As big as it is, it's even bigger than people think," said Ladders founder Marc Cendella. "Hiring practices typically move at a glacial pace, but the pandemic turned up the heat, so we're seeing a rapid flood of change in this space. It's really rather amazing."

THE YOUNG'UNS REALLY WANT IT

In a January 2023 blog post for the website Grizzly Entrepreneurs, Simon Bacher, co-founder of the language learning platform Ling, noted that millennials were the largest generation of the workforce in 2022 and tend to have a completely different outlook on work compared to Gen Xers and baby boomers.

"It's safe to say that most millennials want remote work to continue and, surprisingly, won't even consider a job if it doesn't offer at least a little remote work," Bacher wrote. "That's due to several factors, including millennials' incredible value on a comfortable work environment, having flexible work schedules, and being more in touch with a healthy work-life balance."

A recent report from ADP found that nearly 71% of 18- to 24-year-olds said they would consider looking for another job if their employer insisted on them returning to the office full time, compared to 61% of 35- to 44-year-olds and 56% of 45- to 54-year-olds.

"As long as millennials are the largest workforce, remote

work isn't going anywhere, so companies should be ready to adapt in 2023 and beyond," Bacher wrote. "In the coming years, remote work opportunities will have to meet the demands and expectations of increasingly working millennials.

"However, in terms of previous generations, like baby boomers, remote work is considered 'nice,' but it's not a requirement," he added. "Previous generations are more accustomed to and don't necessarily mind working in an office. While companies won't feel pressured by previous generations to offer remote work in 2023 and beyond, remote work opportunities will likely still increase due to the demands of generations now."

THERE ARE MORE REMOTE-FRIENDLY JOB OPTIONS

Researchers at Indeed looked at trends in remote job postings on the popular employment website across 20 different countries, and what they saw was a shift toward remote work in these postings shortly after the pandemic hit and restrictions were implemented in spring 2020. But as restrictions have eased over time and vaccines have rolled out, Indeed has not seen remote work job opportunities drop much in many of the occupations where it had risen, Nick Bunker, economic research director for North America at Indeed Hiring Lab, told Time Magazine in a video interview last year.

"This suggests that the spur to try out remote work in many places might have been the pandemic, but the trend looks to outlast it," he said.

Despite the remote share of Indeed job postings declining from 9.8% in February 2022 to 8.8% last August, searches for remote work were 9.7% of all searches on Indeed in August, almost five times the share in February 2020. In addition, about 8.8% of job postings on Indeed advertised remote work options in August, up from 2.7% on average in 2019.

"There are fewer advertised remote job postings in the aggregate than earlier this year," Bunker wrote in a September 2022 blog post. "But that shift is mostly the result of fewer postings in remote-friendly fields than a broader move away from touting remote work. Perhaps employers will change their tune on remote work if the labor market significantly cools off, but for now, job seekers have a relative abundance of remote-friendly options."

WORKER PRODUCTIVITY HAS NOT SUFFERED

Business leaders cite declining employee productivity as one of their biggest concerns when it comes to flexible work. But this is another case where the data runs counter to conventional wisdom: flexible work is associated with increased productivity and focus, not less, according to a report from Future Forum.

"Data shows that workers with location flexibility report 4% higher productivity scores than fully in-office workers, a difference that across a workforce can add up to material improvements to the bottom line," the Future Forum report says. "And schedule flexibility leads to even greater benefits. Workers who have full schedule flexibility report 29% higher productivity than workers with no ability to shift their schedule. They also report 53% greater ability to focus.

"Executive miscalculations about worker productivity could have dire consequences," the report continues. "Data finds that the Great Resignation shows no signs of slowing down. The number of workers who say they are likely to look for a new job in the next year rose from 55% to 57% [in fall 2022]. Women, working mothers, and people of color are most likely to say they would like to change jobs. Employees want more choice and control over how, when, and where they work. If employers respond by measuring worker performance and productivity by how many hours employees spend in the office, they're likely to drive away top talent."

IT IS IMPORTANT FOR RETENTION

The option to work from home has now proved to be a great retention tool, and in a tight labor market, many employers cannot afford to hemorrhage talent. Prithwiraj Choudhury, an associate professor at Harvard Business School, recently told Bloomberg that it is especially true for high performers, even if the economy gets worse.

"In any economic environment, top talent always has outside options," Choudhury said.

In order for remote work to be used successfully, managers must understand how to help virtual teams thrive. LinkedIn offered the following tips for boosting remote employee retention:

Create a seamless remote onboarding process: Help new employees thrive by ensuring they feel welcome and have all the technology and information they need before their start date.

Set clear performance goals and ensure alignment: Provide structure, motivation, and direction by working with your remote employees to set firm goals.

Touch base with remote team members often: Schedule regular check-in and keep a line of communication open throughout the day using a messaging platform.

Provide equal access to training materials and resources: Become an advocate for career growth by giving your employees access to online courses or by bringing them on-site for training.

Recognize the achievements of remoter workers: Give public shoutouts for great work on your internal messaging platform and consider building an online recognition wall.

Don't overlook remote employees for promotions: Standardize performance reviews across your team to ensure fairness — remote work shouldn't pause career development.

Resources:

MULTI-STATE COMPLIANCE:
https://ogletree.com/insights/multistate-compliance-for-employers-with-out-of-state-remote-employees/

GRANT THORNTON REPORT ON REMOTE WORK AND STATE TAX POLICY:
https://www.grantthornton.com/insights/alerts/tax/2020/salt/general/covid-19-impact-remote-work-state-tax-policy-11-30

BUSINESS MANAGEMENT DAILY: REMOTE WORK LAWS BY STATE:
https://www.businessmanagementdaily.com/68241/which-state-laws-apply-to-remote-employees/

THE HR TEAM: EMPLOYMENT LAWS FOR REMOTE WORKERS
https://www.thehrteam.com/blog/employment-laws-for-remote-employees-18-important-things-to-know-for-compliance/

NATIONAL LAW REVIEW: MULTI-STATE COMPLIANCE FOR EMPLOYERS WITH OUT-OF-STATE EMPLOYEES:
https://www.natlawreview.com/article/multistate-compliance-employers-out-state-remote-employee

REMOTE WORKERS WORKING OUT OF STATE: WHICH STATE LAW APPLIES:
https://www.trimprulaw.com/out-of-state-employees-working-remotely-which-state-law-applies/

DELOITTE: IMPACT ON STATE FILING OBLIGATIONS:
https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-new-normal-of-remote-work-and-the-impact-2022.pdf

RECIPROCAL AGREEMENTS (BRIEF MENTION):
https://www.employmentlawspotlight.com/2022/03/will-states-come-together-to-resolve-remote-work-tax-withholding-issues-or-will-we-continue-waiting-here-on-the-long-and-winding-road/

STATE RECIPROCITY AGREEMENTS:
https://remote.com/blog/state-tax-reciprocity-agreements

CNN PLAIN ENGLISH REPORT:
https://www.cnn.com/2022/03/01/success/state-income-tax-ramifications-remote-work/index.html