



Working From Home

Are you ready?

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WIPFLI

Regulatory Issues Surrounding Working Across State Lines

- State Tax Issues
- Benefits
- Insurance

State Tax Issues

- Generally employee activities in other states may create state tax filing requirements for sales tax, income tax, and payroll withholding tax.
- Very fact and circumstance driven – but a trap for the unwary
- COVID created nationwide situations in which employees who typically “reported” to an office for work were now working from home...in another state.

Implications of Telecommuting Across State Lines – In “Normal Times”

- Sales tax – physical presence of any kind – generally requires sales tax filings
- Income tax/gross receipts taxes – telecommuting may create a filing requirement.
- Payroll withholding – unless an exception applies – states generally require payroll withholding to the extent an employee performs services within a state
 - ▶ Reciprocity
 - ▶ No income taxes
 - ▶ Below threshold

Telecommuting in “The New Normal of COVID”

- Question – Do employers forced into multistate telecommuting situations have new state tax compliance requirements?
- Answer – It Depends!
 - ▶ Some states – In-state presence due to COVID does not create nexus
 - ▶ Some states – No change in policy due to COVID
 - ▶ Some states – No guidance at all.
 - ▶ Existing guidance creates complexity.
- Wipfli is monitoring guidance
 - ▶ <https://www.wipfli.com/insights/articles/tax-covid-state-tax-challenges-of-expanded-telework>

The Complexity of Telecommuting Across State Lines

- What happens when there is no guidance?
- What happens when the guidance is “until COVID is over”?
 - ▶ How do you define “COVID is over”?
- What happens when state guidance conflicts?
- What happens when employees move around?
- What happens when employees want to transition to remote work permanently?

Other Regulatory Matters

- Workers Compensation
- Benefits
 - ▶ Vacation pay – state rules vary on pay out when employees leave
 - ▶ Health insurance – separate plans??
 - ▶ State FMLA rules – not every state completely mirrors federal rules

Thank you for your time

Questions?

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