



## WORKING WITH MULTI-STATE EMPLOYEES: SOME EMPLOYER BEST PRACTICES & RESOURCES

Employer responsibilities for paying statutory taxes are based on where the **work is performed**. The address of record dictates the employer obligation to ensure that taxes (i.e., state, unemployment) are withheld relative to the authority of the jurisdiction where the work is performed. The employer is also responsible for conforming to the HR policies applicable to the employee's address of record, and employers will face fines and penalties for non-compliance or untimely compliance. These policies include by are not limited to:

- Wage and hour laws
- Holidays and observances
- Leave policies - *paid and unpaid*
- Frequency of pay – *monthly or semi-monthly*
- Timing of final pay – *last day? Next regular payroll?*
- Overtime pay rates
- Employment notices - whistleblowing, time off postings, notice of paydays, lactation policy and

### **BEST PRACTICES**

1. Update your address change policy! Employers often were unaware of employee address changes even before the pandemic. But due to the impact of mobile workforce, employers should become more vigilant.
  - Develop or reinforce your change of address policy – include reasonable timeframes of notice; include consequences of untimely notification; assign responsibility for tax obligations, late filing fees and possible penalties for both the employee and the employer.
2. Revisit or create a remote work policy to include specific guidance for out of state employment. Older “telecommuting” policies do not address the expanded range of relevant and important issues. Considerations about permitting employment for an out of state worker include:
  - How will recruitment and selection practices be impacted by the willingness to pay for talent which resides out of the nexus state?
  - Will the agency reassess criteria for relocation funding of ideal candidates?
  - What performance metrics should be used to determine effective delivery of services and work products?
  - Who is responsible for travel costs and time incurred if remote employees must attend in-person employer-sponsored events or meetings?
  - What are “work hour” expectations relative to a range of customer and team needs and variations in time zones?
  - Will employer contributions (if any) to group insurance plans be adjusted to the employee's state of residence?
  - What variations in workers' compensation, liability, unemployment, and other workforce insurances should be expected, both for costs and benefits?
  - Can or should wages or pay scales be adjusted to the state of residence?
  - Be mindful of the legal requirements of public employees to serve as Disaster Service Workers. Some job roles are also critical roles in a disaster situation!
3. Revisit your technology policies and practices to ensure that issues relevant to remote work inclusive of security of data, notification of data breaches, etc. are included and current.



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4. Widely communicate these policies, and get a signed document where employees acknowledge receipt of the policy and their responsibility to the employer.

### **RECOMMENDED RISK MANAGEMENT ACTIONS**

What can the CA employer do to mitigate the fiscal risks associated with out of state employees? Limit your fiscal risk by taking action promptly!

1. Perform an organization-wide address verification exercise; and then take the steps to comply with governance requirements of the prevailing states and of your business partners.
  - Over the last year, some states offered late fee and penalty amnesty if newly registered employers took corrective action in a timely manner. Pending state legislation may alter amnesty periods.
  - Secure a payroll service to ensure compliance in the relevant area.
  - Retain regionally-experienced consultancy for guidance for non-pay issues; workers compensation claims, employee relations, notice requirements, reciprocity agreements, etc.
  - Notify your risk manager, workers compensation and other carriers that you have employees in other states and obtain clarity around coverage and requirements.
  - Check with your legal counsel, tax compliance and/or audit partner or payroll department for more guidance and direction.

Notwithstanding an external audit and subsequent material audit findings, if you choose to do nothing to assess your risk, then consider the non-budgeted cost for corrective action (fines and penalties) which may be imposed.

### **HELPFUL RESOURCES**

- [How Do I Get Information on State Unemployment Taxes? \(thebalancesmb.com\)](http://thebalancesmb.com)
- [SUTA Tax Requirements for Employers: State-by-state Guide \(patriotsoftware.com\)](http://patriotsoftware.com)
- [Zywave MultiState Comparison Tool](#): Results compare state-by-state employer compliance guidelines for benefit and wage responsibilities.
- [Termination-Requirements-By-State.pdf \(heartcorebusiness.com\)](http://heartcorebusiness.com): Summary of final pay responsibilities, timing, deadlines, and penalties.
- [Zenefits](#): Website which provides information relative to payroll tax withholding & filing guidelines for each state.