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Reduce compliance risks as your workforce becomes permanently remote

By Brett Sipes

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The COVID-19 pandemic pushed employees into unanticipated work-from-home arrangements. Now, as companies adopt more permanent remote-work routines, compliance risk is skyrocketing, and corporate leaders need to start planning to avoid unwanted consequences.

For many companies, remote work started as a temporary way to promote workplace safety during the pandemic. However, new variants of the virus and labor demand are transforming it into a more permanent way of doing business. Unfortunately, compliance risk is rising as companies realize employees are now scattered across states and around the globe.

As workers conduct business across borders—often in locations unknown to employers—the dangers of tax violations, reputational damage, and financial setbacks are climbing. If companies want to reduce compliance risk as the remote workforce becomes more permanent, they need to become proactive fast.

The upward trend of remote work

A 2021 Statista report found that the number of employees who worked remotely five days a week hovered around 17% before COVID-19 started affecting businesses. Since the pandemic, that number has grown to 44%.[1] However, new variants and the risk of losing talent during what *The New York Times* describes as a "conspicuous and perplexing" labor shortage could keep remote work trends climbing.[2]

In December 2021, a crowd of major tech companies, including Google and Uber, pushed back their plans to return to the office amid rising omicron concerns.[3] At the same time, a surge of corporate leaders are now realizing they may not be able to afford to remove new remote work offerings. A 2021 Owl Labs study found nearly half of employees will start searching for a new job if they aren't allowed to work remotely—a terrifying reality for hiring managers who were shaken by the Great Resignation.[4]

Whether it's out of safety concerns, an effort to retain talent, or simply because it fits their new business models, a massive chunk of companies will keep or expand their remote work plans going forward. Unfortunately, as companies rush into more permanent work-from-home models, tax and compliance risks are rising behind the scenes.

The upward trend of compliance risk

Offering full-time remote work was a risk even before COVID-19, but most prepandemic work-from-anywhere companies took time to create policy safeguards and protocols to account for risks. But the spike in post-2020 remote work suggests most corporate leaders started allowing remote work as a flash decision during the pandemic. Now, as those temporary policies become more permanent, leaders are waking up to a workforce that's spread out across the globe with no way to track them.

Here are a few reasons this untethered remote workforce is increasingly dangerous:

- **Duty of care**: Corporations shoulder some level of responsibility for their employees' safety. Alarmingly, many corporate leaders don't know where employees are working from, and that makes it difficult to follow through on traditional safety policies. For instance, corporations may be caught off guard if workers are stuck working in a country where civil unrest breaks out, natural disasters strike, or a pandemic leaves them stranded. In these emergencies, corporations are ill-prepared to protect employees if leaders don't know where their employees are.
- **Tax compliance**: Tax and withholding rules can vary wildly between states, countries, and jurisdictions. When employees work across borders, it can trigger extra tax reporting and withholding obligations for the company, even if the company is not aware of where the employee is working. Misreporting or underreporting taxes carries the risk of fines, reputational damage, and disgruntled employees.
- **Diminished incentives**: Especially in the cases of global equity compensation, an employee may accrue extra tax or costs by working in different countries. Whether that employee has to pay more in tax or simply takes on more reporting responsibilities, it can cast a negative light on the original compensation package. If compensation shifts unexpectedly, businesses risk upsetting or losing talent.

Reducing compliance risk in a work-from-home world

Corporate leaders can reduce compliance risk and still encourage remote work, but they need to take action to protect against issues in the future. A few simple steps corporate leaders should consider if they want to mitigate the risks that remote work carries include the following.

1. Develop or refresh remote work policies

One way to avoid compliance issues and promote employee safety is to create a remote work policy that explains where employees can work and how long they can work there.

Here are a few tips for creating remote work policies that mitigate risk:

- **Dig into the details.** To create an effective remote-work policy, directions need to be clear, and they need to address the root of potential dangers. For instance, it typically isn't enough to simply state that employees can work in any given state for 30 days, because tax triggers are often based on cumulative workdays rather than consecutive days. Instead, it's important to understand the unique tax rules for each jurisdiction the employee may visit and craft processes to fit the rules of local jurisdictions.
- **Tap into a diverse team.** The risks of remote work reach well beyond the human resources department. To avoid compliance violations, corporate leaders may need to access cross-departmental experts with backgrounds in everything from immigration and corporate tax law to intellectual property rights. That's why it's important to bring a broad range of corporate professionals into the room when it comes time to create company-wide remote work policies.
- **Figure out what the remote workforce looks like.** Remote workers can fall into a wide range of categories, and the risk they carry can vary dramatically from one instance to the next. For example, a low-level employee who is planning to work temporarily on a weeklong vacation abroad will probably carry fewer risks than an executive of the company who is a permanent global traveler. Additionally, there will be

different risks that arise out of work at international and domestic locations. In all cases, it's important to nail down the types of remote work that are taking place and to develop a plan for each scenario.

2. Start tracking remote workers

It's difficult, if not impossible, to implement a successful remote work policy without knowing where employees are working. To understand and reduce risk, corporate leaders need to start tracking remote workers.

But tracking remote workers in a way that's ethical, legal, and comfortable for employees is easier said than done. Corporate leaders may be tempted to simply track employees through GPS on a company phone or other device. Yet, GPS tracking carries several potential legal risks. Plus, this method of tracking can easily create privacy concerns and damage company culture.

Instead, corporations are better off gauging employee preferences, understanding what privacy boundaries employees expect, and implementing a tracking policy that respects the worker's individual rights. Some successful tracking methods include voluntary surveys that inquire about the employee's location or periodic requests for location info. Overall, the best employee-tracking strategy for a corporation will depend on its situation, but it's critical that employers start monitoring where employees are working.

Action is essential going forward

Many corporate leaders rushed to offer remote work options in the early days of COVID-19, understandably thinking work-from-anywhere habits would be temporary. However, the longer remote work goes on without safeguards, the higher the compliance risk rises for corporations. By adopting a proactive approach to remote work compliance now, corporate leaders will be prepared to stride in step with growing remote work trends, and they'll have already set the compliance groundwork should risk for remote work rise in the future.

About the author

Brett Sipes has more than 20 years of experience in providing international tax services, and in his current position, he is responsible for providing global mobility tax compliance and consulting to mobile employees and their employers. Prior to joining Global Tax Network, Brett worked in the global mobility area and in international executive services with Big Four accounting firms.

Takeaways

- COVID-19 forced companies to quickly dive into new remote-work environments.
- Virus variants are now causing a growing number of companies to make those remote-work policies more permanent.
- This growth in unchecked remote work is creating tax and compliance risk for both individuals and companies.
- As companies embrace more permanent remote-work policies, most don't have the processes or resources to avoid major compliance pitfalls.
- Refreshing remote-work policies and starting to track workers are important steps companies can take to reduce compliance risk.

1 "Change in remote work trends due to COVID-19 in the United States in 2020," Statista, accessed March 2,

2022, https://www.statista.com/statistics/1122987/change-in-remote-work-trends-after-covid-in-usa/.
2 David Leonhardt, "Where Are the Workers?" *The New York Times*, October 20, 2021, https://www.nytimes.com/2021/10/20/briefing/labor-shortage-us-low-wage-economy.html.
3 Marisa Iati, "Google and Uber delay office returns amid omicron uncertainty," *The Washington Post*, December 6, 2021, https://www.washingtonpost.com/business/2021/12/06/omicron-return-to-office/.
4 Katherine Boyarsky, "Key Hybrid + Remote Work Statistics to Boost Employee Engagement in 2022," Owl Labs, December 1, 2021, https://resources.owllabs.com/blog/hybrid-remote-work-statistics-for-2022.