



A GUIDE TO

# Remote Employee COMPLIANCE



PaperTrails

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# Welcome

In today's society, many businesses are hiring positions where their employees work either fully remotely or on a hybrid schedule. This perk is a great benefit to add to any business' package. Not only does this enhance company benefits, it opens up the door to a whole new pool of potential applicants and can greatly help with attracting and retaining the right candidates for your business.

However, a remote or hybrid workforce does bring many challenges to a business and its' human resources processes. Even more, when those remote employees live in a different state, businesses must be aware of the new legislative compliance requirements.

This guide will provide insights and highlight the areas that your business needs to focus on when dealing with a remote workforce.

## \* ABOUT PAPER TRAILS \*

Paper Trails is a full-service, Maine-based payroll, human capital management and bookkeeping provider. From running payroll, to bookkeeping and benefit administration, Paper Trails allows you to handle the work, while we handle the paperwork. We are a local business (no 1-800 number here) with a team of knowledgeable and fun members ready and willing to assist you!



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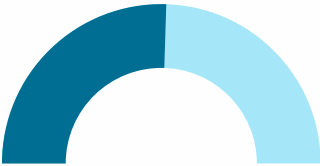
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# Remote Trends

Remote and hybrid work has become an increasingly popular trend since the COVID-19 pandemic. Many businesses adopted these work models out of necessity but have continued to offer this flexibility to their employees.

## \* STATISTICS \*



51% of employees believe office attendance is unnecessary on a regular basis.

69% plan to look for a new job with workplace flexibility in the next three years.



25% of professional workers will work remotely by the end of 2023.

Of the companies that allow remote work, 71% plan to do so permanently.



Sources

[buffer.com/state-of-remote-work/2023](https://buffer.com/state-of-remote-work/2023)

<https://www.shrm.org/>

# Types of Work

There are different forms of a flexible work schedule and a few different topics related to remote work that we will cover in the guide.

## REMOTE WORK:

Allows employees to work exclusively from a remote location that is outside of the company offices (typically from home).

## HYBRID WORK:

Allows employees to split their time between traveling onsite to a workplace and working remotely (typically from home).

## EMPLOYEES THAT LIVE IN OTHER STATES:

This is common among fully remote employees. Often employees live in a state that is different from which the business operates.

## EMPLOYEES THAT TRAVEL TO OTHER STATES:

More common among hybrid workers, this is when employees travel to different states from where they live for business purposes.



# Employees That Live in Other States

With remote work becoming more and more normal across all industries, employees are able to freely move to different states and still work for their company that is based in a different state.



More than **15.9 million Americans** moved within the last year according to the U.S. Postal Service.

When an employee lives in a state that is different from the state in which the business operates, there are numerous items for employers to consider. The state in which the employee lives will effect things such as:

- ✓ Minimum Wage
- ✓ Payroll Taxes
- ✓ Workers' Compensation Insurance
- ✓ Labor Laws
- ✓ And more

In the following sections of this guide, we will dive into each of these topics and how they are effected by remote employees.

# Payroll Considerations

When a remote worker lives in a different state from the state in which the business operates, employers must know how this impacts their payroll processes.

Example: The business **operates** in Maine, but the employee **lives and works** in Massachusetts.

**1** Minimum Wage: The state in which the employee **lives and works** will be the state in which the employer must follow the minimum wage. In our example, the Maine minimum wage for 2023 is \$13.80/hour, but the Massachusetts minimum wage is \$15.00/hour.

Only this employee has to earn at least \$15/hour. Other Maine based employees may earn less than \$15/hour, but more than \$13.80/hour.

**2** Payroll Taxes: When an employee is living and working in a different state, the employer needs to setup tax withholdings for that state. There are three categories to consider from a payroll tax perspective.

State income tax: The employer must withhold and remit state income tax to the **state that the employee lives in**. This is true for the 42 states that collect income tax.

State income tax is determined by either a "flat rate" or a "progressive" rate. Be sure to check with your state for its' income rates.

State unemployment tax: The employer must setup a state unemployment account **where the employee lives**. Once this is established, employers must withhold and remit state unemployment tax to that state.

State unemployment tax is determined by multiplying the employer rate by the taxable wage base. Each state has specific employer ratings and taxable wage bases, so be sure to check with your state for its' specific requirements.

Workers' compensation insurance: All states require employers with at least 1 employee to offer workers' compensation insurance. This insurance is used by employees when a workplace accident/injury occurs to cover things such as:

- Lost wages
- Medical bills
- Rehabilitation
- Job retraining
- Disability benefits
- Funeral services

Employers must apply for workers' compensation benefits in the state that their remote employees live and work. This tax is 100% employer funded and each state has unique workers' comp rates. These rates are determined based on the following factors:

- Business risks
- Benefit levels
- State-specific regulations
- Healthcare costs

**3** State Specific Laws: Many states have certain laws that employers must consider when they have employees that live and work in those states. Some example of these include:

Paid Family Medical Leave: If an employee lives in a state where Paid Family Medical Leave (PFML) is a requirement, employers must **pay and/or withhold** a payroll tax for each eligible employee.

PFML typically provides a weekly benefit payment to an employee that is a percentage of the worker's usual income through a State run program. State programs are funded through small, mandatory payroll deductions from employers, employees or both. Each state works a little differently when it comes to how PFML is funded, so be sure to check with your state.

Retirement Savings Programs: Another emerging program across many states is mandatory state-run retirement programs. These programs required employers to enroll eligible employees in a state-run ROTH IRA if the employer **does not offer** an employer-sponsored plan.

Should employers meet the state minimum employee count in a state that has a retirement mandate, they must enroll those employees in that state-run program.

For example, a New Hampshire business that does not offer an employer-sponsored plan and has 5 or more Maine based employees must enroll those employees in the Maine Retirement Savings Program.

## 4

**Other Tax Laws:** Absent any special waiver, a remote employee can create nexus for various taxes other than income and FICA taxes. These taxes can include:

**Gross receipt tax:** A gross receipts tax is a tax applied to a company's gross sales, without deductions for a firm's business expenses. Currently, nine states impose such a tax:

- Delaware
- Michigan
- Nevada
- New Mexico
- Ohio
- Oregon
- Tennessee
- Texas
- Washington

Employees who **work from locations with taxes** on gross receipts may affect the filing obligations of their employers.

**Sales tax:** The location of workers can affect where the revenues they create are taxed. A company should **know where employees are working** because the services those employees provide may be subject to sales tax in some states but not others. Location can also affect the taxes paid on software and other items purchased for employees' use.

With remote work becoming more mainstream, companies find themselves in a position of needing to **remit sales tax filing in jurisdictions** with little economic activity because of the presence of a new telecommuting employee.

**Local business taxes:** Local authorities may tax personal property, such as machinery, equipment, furniture, supplies, leased equipment, and movable machinery used in a business. Some **cities and municipalities also levy local income taxes** on any business operating within their borders.

Be sure to check with state and local governments when remote employees moved into new areas for any local tax laws.



It is important to **consult your CPA to learn more about your business tax responsibilities.**



# Residency & Reciprocity Agreements

A reciprocity agreement is an agreement between two states to allow employees to pay taxes to the state **where they live**—instead of where they work.



As an example, a person who lives in Pennsylvania but works in New Jersey would not have to pay state taxes in New Jersey because the two states have a tax reciprocity agreement.

There are 16 states with reciprocity agreements.

State	Reciprocity Agreement States
Arizona	California, Indiana, Oregon, Virginia
Illinois	Iowa, Kentucky, Michigan, Wisconsin
Indiana	Kentucky, Michigan, Ohio, Pennsylvania, Wisconsin
Iowa	Illinois
Kentucky	Illinois, Indiana, Michigan, Ohio, West Virginia, Wisconsin, Virginia
Maryland	District of Columbia, Pennsylvania, Virginia, West Virginia

State	Reciprocity Agreement States
Michigan	Wisconsin, Indiana, Kentucky, Illinois, Ohio, Minnesota
Minnesota	Michigan, North Dakota
Montana	North Dakota
New Jersey	Pennsylvania
North Dakota	Minnesota, Montana
Ohio	Indiana, Kentucky, Michigan, Pennsylvania, West Virginia
Pennsylvania	Indiana, Maryland, New Jersey, Ohio, Virginia, West Virginia
Virginia	Kentucky, Maryland, DC, Pennsylvania, West Virginia
West Virginia	Kentucky, Maryland, Ohio, Pennsylvania, Virginia
Wisconsin	Illinois, Indiana, Kentucky, Michigan
Washington D.C.	All nonresidents who work in the district can claim exemption from withholding for the District of Columbia income tax.



# HR Considerations

In addition to the payroll issues that remote or hybrid workers can cause, there are some items to consider from a **human resource perspective** as well.

Example: The business **operates** in Maine, but the employee **lives and works** in Massachusetts.

**1** Benefit requirements: The state in which the employee **lives and works** will be the state in which the employer must follow any benefit coverage requirements.

Different states have different benefit requirements including Paid Family Medical Leave, earned paid leave laws, retirement mandates, and health insurance coverage. Based on your employees location and they size of your business, there may be certain laws that your business must follow.

Check with your benefits broker for more information about benefits coverage in the states that your remote employees live.

**2** Labor Law Posters: Per the federal AND state governments, labor law posters must be displayed in the workplace in an area that is visible to employees.

But, what about remote workers that are not in the office? According to the DOL, employers may satisfy one-time notice requirements by e-mail delivery if employees customarily receive e-mails from the employer. For those laws that require continuous-posting obligations, employers can using electronic means if employees exclusively work remotely, customarily receive information from the employer via electronic means and have readily available access to the electronic posting at all times

These posters can be found on at [www.papertrails.com](http://www.papertrails.com) for free.

### 3

**Expense Reimbursements:** For all employees, but especially remote and hybrid employees, your business must decide which expenses will be reimbursed back to the employee. Items that could be reimbursed include:

- Home office computer
- Cell phone
- Printers
- Office furniture
- Home office supplies
- Home internet
- Electricity
- Travel expenses

There are some differences on the federal and state levels when it comes to expense reimbursements.

**Federal law:** On the federal level, employers are only required to reimburse employees for work expenses if that expense drops their earnings below the **minimum wage threshold**.

Further, employers are prohibited from requiring employees to reimburse the organization for using their employer-provided equipment if it reduces their earnings below minimum wage or overtime compensation.

**State laws:** Currently 11 states, and the District of Columbia, have specific requirements surround expense reimbursements. Many of the states distinguish between **necessary and non-necessary expenses**.

In California, for example, employers must reimburse employees for all necessary expenses, including those incurred at the employer's direction. Necessary expenses include internet access and phone bills for remote workers.

Some states distinguish between a **fully remote position and an employee choosing to work remotely**. Expenses are necessary when the position is a fully-remote position and not necessary when an employee is choosing to work remotely.

**Taxes:** Another important thing to consider is how to tax expense reimbursements. Some reimbursements are **considered taxable income and some are non-taxable income** for the employee. Typically, non-business related reimbursements (vehicle stipend, wellness stipend, work from home stipend) is taxable income for an employee. Business necessities (office supplies, mileage, uniforms) are generally non-taxable income for an employee.

4

Company Assets: Many businesses provide employees with certain company assets that must be returned upon cessation of employment. These items must be **tracked and accounted** for carefully, especially with remote or hybrid workers. Not collecting these items can become costly to an organization over time. Some items that may need to be returned include:

- ✓ Company owned computers and printers
- ✓ Company cell phones
- ✓ Company owned vehicles
- ✓ Key fobs
- ✓ Other tools and uniforms

5

Handbook Policy: All businesses that employ remote or hybrid workers must have a policy in their employee handbook. This policy will be key to **maintaining compliance** and keeping your employee expectations on track. Items to include in a remote employee policy include:

- ✓ Rule of eligibility to work remotely
- ✓ Notice of reliable internet and electricity
- ✓ Expectations for working hours and productivity
- ✓ Requirement of notification when moving to new state
- ✓ Company assets and return policy
- ✓ Legal rights of remote employees
- ✓ Notice of cybersecurity and sensitive information

Each remote or hybrid employee should sign a remote work policy stating that they understand expectations. Additionally, remember to update your remote worker policy each time you break into a new state or at least every 3 years.

At Paper Trails, we can help your business stay **compliant with its' responsibilities** when it comes to remote or hybrid employees.

# Employees That Travel to Other States

Even when employees do not live in a different state, but travel to a different state to perform work, there may be tax challenges to consider.

Depending on the duration of stay, and money earned in a state, employees may be required to pay income tax to that particular state. Employers must be aware of this and setup and withhold **state income tax** on these workers.



62% of U.S. employees have traveled across state lines for work in the past 12 months.

23% of mobile workers currently pay income tax in a state other than the state they live in.



Example: Employee lives and works in Maine, but travels to Massachusetts occasionally for work purposes.

In this scenario, there are 3 different ways that states handle income taxes on employees. On the following pages, we will discuss each of these ways, and how businesses must deal with taxes to stay compliant.

**1** Require taxes to be paid on Day 1: About half of the states require employees to pay income tax to the state **starting on the first day** that nonresident employees travel to that state. These states include:

- Alabama
- Arkansas
- Colorado
- Delaware
- Indiana
- Iowa
- Kansas
- Kentucky
- Louisiana
- Maryland
- Massachusetts
- Michigan
- Mississippi
- Montana
- Nebraska
- New Jersey
- North Carolina
- Ohio
- Rhode Island
- Vermont
- Virginia

**2** Require taxes to be paid after a certain threshold: Another portion of states require nonresident employers to pay income tax after spending a certain amount of **days in the state, earning a certain amount of income, or a combination of both.** These states include:

- Arizona
- California
- Connecticut
- Georgia
- Hawaii
- Idaho
- Illinois
- Maine
- Minnesota
- New Mexico
- New York
- North Dakota
- Oklahoma
- Oregon
- South Carolina
- Utah
- Wisconsin

Below are the rules surrounding income tax on traveling workers on some of the states in the northeastern part of the U.S.

Rules in Maine are as follows: Employees that work in Maine as a nonresident for more than 12 days must file a Maine tax return if they earned more than \$3,000.

Rules in Massachusetts are as follows: If an employee's gross income from Massachusetts sources is more than \$8,000, they must file a state tax return.

Rules in Connecticut are as follows: Nonresidents who work in Connecticut have to pay state income tax if they earn money in the state and earn more than \$12,000 a year, if married and filing separately, or earn more than \$15,000 a year if single.

Rules in New York are as follows: Nonresident of New York that earn money from sources in New York must file a New York tax return if that income exceeds the New York standard deduction when combined with the income from other sources.

**3** No state income tax requirement: Finally, a handful of states **do not require** residents or nonresidents to pay state income tax. Employees that travel to the following states do not have additional tax liabilities:

- Alaska
- Florida
- Nevada
- New Hampshire
- South Dakota
- Tennessee
- Texas
- Washington
- Wyoming

Consider an employee who travels to 4 states for multiple weeks each year. If that employee spends enough time, or earns enough money, in all 4 of those states, it is possible that the employee will have to **file a state income tax return** to each of the 4 states.



It is important to remember that, according to the U.S Department of Labor, the time spent traveling **during normal work hours** is considered compensable work time and employees must be paid for this time.



# How We Can Help

Remote or hybrid work is a great benefit to attract and retain top talent. However, many payroll and human resource compliance challenges come along with this type of flexible work arrangement.

At Paper Trails, we have the **tools and knowledge** necessary to assist your business in maintaining compliance with federal and state requirements. Our team of dedicated **payroll and HR experts** are ready to work side-by-side with you to help you navigate this ever-changing world.

Collaboration is the best way to provide our clients with the full support they expect.

If you need assistance maintaining compliance with your remote employees, or any other legislative hurdle, feel free **to contact us today!**



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