



Remote Workers: Not as Simple as it Seems

Audrey E. Mross
Munck Wilson Mandala LLP
Dallas, TX
amross@munckwilson.com



1

Employers' Involuntary Pivot to Remote Work

- First U.S. COVID case diagnosed Jan. 2020 and stay-at-home orders were widespread by March 2020
- 37% of U.S. jobs can be done entirely remotely, per 2020 U of Chicago study
- 52 % of managers will allow their employees to work remotely more often post-COVID, per a KPMG survey
- 71% of workers say they would want to work remotely at least a quarter of the time, per a KPMG survey



2

What Do Employees Say? Benefits of Home vs Office

Home

- 60% - No commute
- 49% - Flexible schedule
- 47% - Less time getting ready
- 38% - Quiet
- 37% - More time with family & friends
- 16% - Fewer meetings

Office

- 55% - Face to face collaboration
- 54% - Socializing
- 44% - Work/personal life boundaries
- 39% - Better equipment
- 31% - Face time with manager
- 16% - Quiet

Source: Survey of Working Arrangements and Attitudes
March 2022

3

Taxes

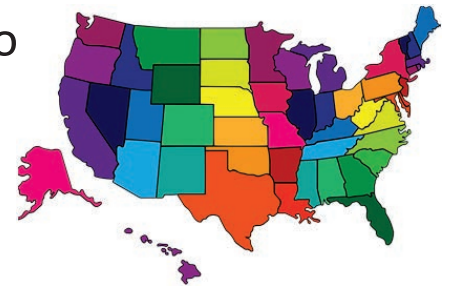
- State income tax
- Other business taxes, if nexus (CA, ID, NJ, VA say one worker establishes nexus)
- Pre-COVID models
 - Convenience of the employer
 - Reciprocal agreements
 - Statutory definition of “resident”
- COVID response
 - States’ temporary waiver of state income tax on telecommuters expired or expiring
 - IL 2020 law requires withholding of state tax for remote ee in IL for more than 30 days
 - MA law challenged by NH; SCOTUS declined to review



4

Which States' Law Applies?

- Varies by statute
- Coverage often triggered by number of employees
 - Count only the employees in the state?
 - There may be a small employer exclusion
 - Count all U.S. employees?
- Changes to those thresholds due to #metoo



Wage and Hour

- FLSA Exempt Workers
 - Varying duties' tests
 - Varying minimum salary amount
- FLSA Nonexempt Workers
 - Higher minimum wage
 - Daily overtime
 - Off the clock work
- Meals and Breaks
- Notice of Wage Rate Deduction



[This Photo](#) by Unknown Author is licensed under [CC BY-ND](#)

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

Title search: Remote Workers: Not as Simple as You Think

Also available as part of the eCourse

[Hooked on CLE: January 2023](#)

First appeared as part of the conference materials for the
29th Annual Labor and Employment Law Conference session
"Remote Workers: Not as Simple as You Think"