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Successful Telecommuters: Four Actions That Really Work

Over 13 million people in the United States work remotely at least one day per week, according to the recent U.S. Census. Whether designed as part of the company's formal employment policies or permitted on a one-off basis, telecommuting continues to become more prevalent as employers struggle to address the unique issues that accompany these remote work spaces. For any employer offering telecommuting on any scale, the following four action items should be part of any workable program.

Consider the Written and Unwritten Rules

Depending on the prevalence of telecommuting within the organization, many employers develop written telecommuting policies and procedures for requesting and monitoring such arrangements. Other employers choose to address the issue more informally on a case-by-case basis.

Regardless of approach, at a minimum, the following should be reduced to writing:

- Employee's statement of the basis for the telecommuting request;
- Terms of the arrangement such as work days and hours, methods of reporting hours worked, and general face-time expectations;
- Disclaimer that telecommuting privileges may be revoked at any time;
- Specific description of the remote work location, as well as policies relating to reimbursement for remote work location set-up and maintenance expenses; and
- Procedures for protecting the confidentiality of employer information and security of employer-provided property.

Define the Remote Work Location

Most of the debate over telecommuting involves the potential impact on employee productivity and engagement with co-workers. And while certainly such considerations, which involve a critical review of each employer's business model, should be at the forefront of the analysis, employers should

remain mindful of the foundation of telecommuting – the remote work location.

Employees should be directed to establish a specific work location for conducting business in order to minimize interruption and distraction. They should also be required to specify in writing the exact remote office location (e.g., second floor spare bedroom, first floor den). If an employee then claims a work-related injury, the fact that the injury occurred in a location outside of the designated work area or outside designated working hours may provide a defense to workers' compensation claims. Likewise, absent a compelling business reason, telecommuters should be prohibited from inviting co-workers or third parties into their home to conduct business.

Employers also should consider requiring employees to acknowledge that they have received and will set up their home office in compliance with the [computer workstation checklist](#) published by the Occupational Safety and Health Administration (OSHA). Although OSHA has publicly stated that it does not intend to inspect home offices or to require employers to do so, providing the checklist to employees demonstrates that the employer directed the employee to establish a safe work zone. If the telecommuter is to perform non-office type work (e.g., manufacturing or operations regarding hazardous materials), additional OSHA requirements may apply.

Telecommuters should be required to maintain a specified amount of insurance coverage – property, personal injury and general liability – which would most likely be available in conjunction with the employee's personal homeowners or renters insurance policy. If the employer provides the employee with any valuable employer equipment for home use, additional insurance riders may be required to fully insure the value of that property. Employers should also review their own insurance coverage to determine whether additional general liability coverage, a rider on workers' compensation coverage, or other supplemental coverage may be needed in connection with telecommuting employees.

Select the Right Review Team

Requests for telecommuting may initially come informally, either from employees or supervisors.

However, all requests should be made in writing and provided to the appropriate managers for consideration.

In reviewing the request, the following personnel may need to be consulted:

- **Supervisors.** Provide input regarding the employee's ability to work independently and whether the position's job duties would transition well to a telecommuting environment.
- **Human Resources.** Assess the potential impact across the organization of allowing telecommuting for certain categories of positions or under certain circumstances (e.g., whether the company will be bombarded with similar requests from others in similar positions). Human resources personnel should also determine whether the request requires more detailed legal consideration, particularly if the request relates to an employee's disability or child/parental care needs.
- **Tax and Payroll.** Businesses may be surprised to discover that some states will impose business privilege taxes on out-of-state businesses as a result of just one telecommuting employee working in that state. Other states and cities may require businesses to register to do business in the location of a telecommuting employee, which can impact the business on a much larger scale. Employers should also advise a potential telecommuter to consult with the telecommuter's personal tax advisor and avoid making representations regarding the potential tax benefits of telecommuting to the employee.
- **Information Technology Personnel.** Advise of available security controls to protect confidential or proprietary information accessed remotely and whether telecommuter network access hours may be monitored or controlled remotely.
- **Compliance.** Inform telecommuters regarding means of protecting particularly confidential or sensitive information (e.g., protected health information of third parties).

Monitor Duty Slippage and Reassess Periodically

Given the risk of overtime claims, many employers do not allow employees who are entitled to overtime pay to become telecommuters. If telecommuting is authorized, employees must be required to accurately report all time worked and agree to follow a written overtime policy. Employers should determine whether there are technology options to automatically prevent such employees from logging onto the company's computer network outside of business hours.

Even for those employees whose duties render them exempt from overtime under federal and state law, the risk of wage payment claims still exists. Remote work may lead to a gradual shift in job duties away from the supervisory and higher-level managerial functions that initially rendered the position overtime-exempt. Job descriptions and actual functions of these telecommuters should be periodically monitored for any duty slippage that would jeopardize overtime-exempt status. Employers should expect that the first several months

to a year of telecommuting will be an adjustment period where expectations need to be clearly defined and potentially re-set along the way. Not only telecommuters but also their direct supervisors may need direction during this initial period. Additionally, on at least an annual basis, employers should reassess whether specific telecommuting arrangements are still working for both the company and the employee. The assessment should take into account not only the telecommuter's productivity and financial ramifications to the company, but also the impact on retention and recruiting, customer relationships, and co-workers who do not telecommute.

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Telecommuting done right provides a significant advantage to those businesses where remote work fits within their business model. A bit of planning, coupled with periodic monitoring, can be the critical difference between a successful and a failed telecommuting arrangement. ■

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