

## Telework Considerations Outside the Commonwealth of Virginia

Agencies and employees should consider and consult with appropriate resources when considering telework outside the Commonwealth of Virginia. This checklist provides a guide for issues agencies and employees need to consider and research if they are considering allowing employees to routinely work outside Virginia. Agencies are encouraged to work closely with agency legal staff and/or the Attorney General's Office to identify other legal or compliance requirements. Please keep in mind that telework outside of the U.S. may result in additional considerations beyond what is included in this document. Agencies should be prepared to research and address additional topics when considering telework outside of the U.S.

Topic	Consideration	Yes	No
<b>Taxes</b>	Is a "tax nexus" triggered by out-of-state telework?  <i>A tax nexus can occur when an employer has a business location or employees are performing work (e.g., telework) in a particular state outside the state where the employer is located. When a nexus is established, the employer must then comply with the particular state's tax withholding requirements (in addition to other wage and hour laws).</i>	<input type="checkbox"/>	<input type="checkbox"/>
	Does the state have a state withholding tax?	<input type="checkbox"/>	<input type="checkbox"/>
	Does the state have their own withholding form or do they utilize the federal W-4 to determine the state withholding?	<input type="checkbox"/>	<input type="checkbox"/>
	Does the telework address have local taxes?	<input type="checkbox"/>	<input type="checkbox"/>
	Does the state have specific W-2 reporting requirements?  <i>Agencies must provide State Payroll Operations with the withholding and unemployment insurance account numbers that should be requested from the relevant state when hiring someone outside the Commonwealth of Virginia.</i>	<input type="checkbox"/>	<input type="checkbox"/>
	Does the state have any exclusions of pre-tax deductions (Cafeteria Plans, 401(k), 457, etc.) from state/local taxable wages?	<input type="checkbox"/>	<input type="checkbox"/>
<b>Unemployment Insurance &amp; Taxes</b>	Does a reciprocity agreement exist with other states?	<input type="checkbox"/>	<input type="checkbox"/>
	Does the state allow government entities to participate in unemployment reimbursements or is the employer required to fund unemployment?	<input type="checkbox"/>	<input type="checkbox"/>
	Does the state have specific unemployment insurance and requirements?	<input type="checkbox"/>	<input type="checkbox"/>
	Does the state require additional employee taxes for unemployment?	<input type="checkbox"/>	<input type="checkbox"/>
<b>Workers' Compensation</b>	Does the state have specific requirements for workers' compensation?	<input type="checkbox"/>	<input type="checkbox"/>
	Does the state have regulations regarding state specific workers' compensation reporting, audits or assessments?	<input type="checkbox"/>	<input type="checkbox"/>
<b>Wage and Hour Laws</b>	Is there a state minimum wage for the state and/or locality?	<input type="checkbox"/>	<input type="checkbox"/>
	Does the state have specific overtime calculation regulations?	<input type="checkbox"/>	<input type="checkbox"/>

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	Does the state have regulations governing meals and breaks?	<input type="checkbox"/>	<input type="checkbox"/>
	Does the state have specific work hour regulations?	<input type="checkbox"/>	<input type="checkbox"/>
	Does the state have shift premium requirements?	<input type="checkbox"/>	<input type="checkbox"/>
	Does the state have specific format requirements for pay advice reporting?	<input type="checkbox"/>	<input type="checkbox"/>
	Does the state have special regulations governing the method of payment of wages?	<input type="checkbox"/>	<input type="checkbox"/>
	Does the state have specific requirements for child support and garnishment processing?	<input type="checkbox"/>	<input type="checkbox"/>
	Does the state have any pay equity regulation?	<input type="checkbox"/>	<input type="checkbox"/>
<b>Workplace Safety</b>	Are there state specific requirements for OSHA?	<input type="checkbox"/>	<input type="checkbox"/>
	Are there state specific requirements for OSHA reporting?	<input type="checkbox"/>	<input type="checkbox"/>
<b>Employment</b>	Does the state have any disability accommodation requirements?	<input type="checkbox"/>	<input type="checkbox"/>
	Does the state have specific drug testing requirements?	<input type="checkbox"/>	<input type="checkbox"/>
	Are there state specific new hire reporting requirements?	<input type="checkbox"/>	<input type="checkbox"/>
	Does the state have specific EEO and EEO reporting requirements?	<input type="checkbox"/>	<input type="checkbox"/>
	Does the agency have an arrangement to have someone physically examine I-9 documents remotely (e.g., a notary public – see <a href="#">USCIS I-9 Central</a> for more information)?	<input type="checkbox"/>	<input type="checkbox"/>
<b>Leave</b>	Does the state require employer paid short-term disability?	<input type="checkbox"/>	<input type="checkbox"/>
	Does the state require additional employee taxes for disability?	<input type="checkbox"/>	<input type="checkbox"/>
	Does the state have requirements governing jury duty leave?	<input type="checkbox"/>	<input type="checkbox"/>
	Does the state have required paid leave time for maternity/paternity leave?	<input type="checkbox"/>	<input type="checkbox"/>
	Are there state specific FMLA provisions?	<input type="checkbox"/>	<input type="checkbox"/>
	Are there state specific holiday requirements?	<input type="checkbox"/>	<input type="checkbox"/>
<b>Equipment</b>	Will the agency provide state issued equipment to be delivered to the out-of-state teleworker?	<input type="checkbox"/>	<input type="checkbox"/>
	Does the agency have a process and procedure for collecting state issued equipment from the out-of-state teleworker?	<input type="checkbox"/>	<input type="checkbox"/>
	Does the agency have a process and procedure for how state issued equipment will be maintained?	<input type="checkbox"/>	<input type="checkbox"/>

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The following resources are provided to help support agencies and employees in considering requirements and obligations for out-of-state telework. These resources are not all inclusive and we encourage both agencies and employees to consult additional legal, payroll, or other resources as necessary.

### External Resources

[DOL's Localization of Work Provisions](#) - complete a 4 factor test to determine which state wages should be reported and unemployment insurance tax paid.

[Chart of state and local tax authority positions](#) (posted by Wipfil)

[Chart of websites for state and selected local tax authorities](#) (posted by Drucker & Scaccetti)

[State Employment and Labor Laws](#) (posted by The Lunt Group, LLC)

[SHRM State Law Developments](#)

[SHRM Multi-State Laws Comparison Tool](#) (requires SHRM membership)

### Commonwealth of Virginia Resources for Agency HR Staff

Workers' Compensation: DHRM Risk Management, [dhrmriskmanagement@dhrm.virginia.gov](mailto:dhrmriskmanagement@dhrm.virginia.gov)

Benefits: Office of Health Benefits, [ohb@dhrm.virginia.gov](mailto:ohb@dhrm.virginia.gov)

Virginia State Payroll Operations: Out-of-State Payroll Tax Information,  
<https://www.doa.virginia.gov/reference/payroll/>

Department of Accounts State Payroll Operations: [payroll@doa.virginia.gov](mailto:payroll@doa.virginia.gov)

Legal: please contact your agency Legal Staff or the Office of the Attorney General