

Xpert HR

Audit Checklist for Remote Worker Wage and Hour Compliance





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While many employees are beginning to return to work as states and localities loosen coronavirus restrictions, millions of others continue to work remotely. For many businesses, remote work is now part of the “[new normal](#).” Among other things, it can help promote social distancing; improve recruitment and retention; and limit the need for office space.

But remote work poses a variety of compliance challenges as well, such as disability accommodations, workplace safety and, of course, the dreaded wage and hour laws. Collective action wage and hour lawsuits continue to be certified at a [record rate](#), so it’s more important than ever to stay compliant. Use this checklist to identify some of the most common trouble areas and fix them before your business becomes the latest target.

Timekeeping and Hours Worked

- Is there a system in place for accurately tracking all [hours worked](#) by nonexempt remote employees?
- Is there a policy in place prohibiting ["off the clock" work](#) - for example, volunteering to stay late to complete a project even after a scheduled shift has ended?
 - Is this [policy](#) communicated to employees and managers?
 - Have employees signed an [acknowledgement](#) regarding the policy?
 - Is this policy enforced?
 - In the event the policy is violated are nonexempt employees paid even for work that was not requested or even authorized? (Note: Although employees who work without their employer's authorization must be paid, they may be subject to [discipline](#).)
- Do timekeeping systems [round employees' working time](#) to an interval no greater than the nearest quarter-hour? Does any rounding average out over time to count as hours worked all the time the employees have actually worked?
- Do time clocks or other timekeeping methods precisely record all of employees' working time? Are there no [major discrepancies](#) between the reported time and actual hours worked?
- Are nonexempt employees provided any [meal](#) and [rest breaks](#) required by [state law](#) and, if necessary, paid for that time? Are there [meal](#) and [rest break](#) policies in place to forbid employees from performing work during breaks, and are these policies enforced?
- Are nonexempt employees paid for any time spent in training sessions or work-related meetings other than those that meet certain [strict criteria](#)?

Recordkeeping

- Are all records required for [nonexempt employees](#) accurately kept and maintained, including the hours worked each workday and the total hours worked each workweek?
- Are all records required for [exempt employees](#) accurately kept and maintained? (Note: Although employers do not need to track the hours worked by most exempt employees, an employer may require exempt employees to record and track hours in an effort to limit damages in the event of a misclassification lawsuit.)
- Are [state-specific recordkeeping requirements](#) also fulfilled?

Employee Classification

- Have employees' job duties changed as a result of them working remotely?
 - For example, are overtime-exempt employees no longer overseeing the work of two or more full-time employees because their division was downsized?
 - Or are overtime-exempt administrative employees' spending more and more time on menial tasks rather than significant matters?
 - If so, consider whether it is necessary to [reclassify](#) them.

Business Expense Reimbursement

- Are remote employees using their own equipment or services – such as a home internet connection, a cell phone, or a home printer – to perform work? If so, review [state and local laws](#) that may require reimbursement of these expenses.

State and Local Variations

- Are employees working in a different state or locality than where the business is located? If so, review state and local requirements involving:
 - [Minimum wage rates.](#)
 - [Overtime variations.](#)
 - [Minimum salary levels for overtime-exempt executive, administrative and professional employees.](#)
 - [Lactation/breastfeeding breaks](#), and
 - [Days of rest.](#)

Additional Resources

[Coronavirus: Wage and Hour](#)

[Webinar: Coronavirus - Wage and Hour Considerations for Employers](#)

[Webinar: COVID-19 Wage and Hour Considerations During Reopening](#)

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