



BEYOND THE MIC

with AEM



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Remote Work

Hosted by Leah Davis, Tamara Hastings & Brenna Ramy

EPISODE

12

NOTE: Because of the nature of ever-changing human resources, payroll, and tax regulations, all information discussed herein is subject to change. Please reach out to us to discuss your organization's unique challenges so that we can provide you with up-to-date information and help you find the solutions.

Summer is around the corner and in this new work-from-home-friendly environment, many employers may find themselves with employees who are asking to work from the cabin, the beach, or a similarly relaxing summer location. While this may seem like a simple request, employers and HR teams have some important implications to consider before approving a new work-from-home location.

In this episode of Beyond the Mic, Tamara Hastings, Leah Davis, and Brenna Ramy discuss some of the implications of having remote employees who are requesting to work elsewhere, particularly if the remote work brings them to a different state. From payroll taxes and state withholding to labor laws and employee classifications, it's important to understand these implications and establish some policies to guide your organization through this potentially new territory of remote work.

Meet the Hosts



Leah Davis, CPA

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As President of the AEM Workforce Solutions team, Leah uses her background in public accounting, business ownership, and Human Resources and payroll support to provide her team with a strong foundation of knowledge and experience. She enjoys helping clients grow and learn, no matter where they are in their HR journey.



Brenna Ramy, PHR, SHRM-CP

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Brenna enjoys working with leaders to determine the most effective employment model to meet business needs and strategic direction. She has over fifteen years of Human Resources experience in the industries of hospitality, retail, multifamily housing, and consulting.



Tamara Hastings, PHR

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Tamara brings over nine years of experience working closely with business leaders, managers, and employees in a wide variety of HR functions. She has also previously owned and operated her own small business and brings that experience and knowledge with her as she works with clients.

Episode Transcript

Tamara Hastings: Welcome back to beyond the mic. I'm Tamara Hastings, a Senior Associate at AEM Workforce Solutions. And today I have the opportunity to talk again with Leah Davis, President of the Workforce Solutions Team and Brenna Ramy, a Senior Manager on our team. Leah and Brenna, the good news is that summer is right around the corner. The weather's much nicer and many people have already been vaccinated for COVID-19. Overall, that's really exciting news. However, as with many things that creates some challenges in the workplace.

So now that we have the combination of more employees working remotely and more people feeling comfortable with traveling, we're expecting to hear questions such as, can I work from my cabin? Can I work from the beach this summer? Which sounds really great to me. So let's spend some time today talking about how to answer that question and what business owners and HR need to consider before they answer it.

Let's start with something fun, though. So I'm curious for both of you Leah and Brenna, where is your dream spot to work remotely from?

Brenna Ramy: Obviously my answer is in the office next to you two. That's a lie, that's not true. In a dream world, you are not my utopian paradise, I apologize. I don't have an actual GPS named location that I can give you, but I can give you the vision or the feeling which would be on the porch of a log cabin, that in one direction faces a body of water, and in another direction faces or is surrounded by woods or a forest of some kind. I like to have a little bit of both depending on my mood, and I like the sound of the forest and the smell and the view of the water. You could join me there, certainly, but I would be there in my utopian paradise.

Tamara Hastings: So somewhere with a really strong internet connection is what you're saying.

Brenna Ramy: Yeah, exactly.

Leah Davis: Brenna, to be honest, I think, I'm going to follow you from the office to your dream work location. As I was thinking through this, my dream location would be a log cabin, sitting in an Adirondack chair, looking at mountains and a body of water if possible. That's where I would want to be too. And Tamara, yes, great internet. When you're off the grid the internet is awesome.

Tamara Hastings: Our zoom calls will be buffering the whole time. I will call you all from the beach-front. So we'll have our zoom calls from there. Well, I appreciate it. It's good to have those mental pictures. Before we dig into the details, let's start with, can we ask our employees where they're working from? Is that something we can even ask them?

Leah Davis:

I'll tee this up and Brenna, you jump in. So from a legal perspective, from a payroll tax perspective, we must be asking our employees where they're working from. If you have employees, and especially in the last year, we've had many employees that went to remote work and might never come back from remote work because it's going fine. Employers and employees are finding benefits from that arrangement, or they'll never be back full time in an office setting. So the obligation of the employer, however, is to know where their employees are working because all of the employment tax laws, all of the employment law regulations are entirely based on where the employee is performing the work. If we have an employee who's been working remotely and they're great, and that remote work is going great and they pick up and move to a neighboring state or to California, they assume all of the protections and payroll tax obligations that come with that new state that they are now teleworking in.

So long answer, we just went through the short answer. Employers actually must know where their employees are working.

Tamara Hastings:

Is there a good way to ask them? Employees might be a little protective with that information and maybe they don't want to tell you. So how do we get that information from them in a way that feels good to both parties?

Brenna Ramy:

I'll jump into that one and start with the answer is not geo-tagging or marking GPS points. A lot of employers can see that you use payroll systems that have mobile apps for punching in and they can see where somebody is punching in. So the solution is not stalking your employees. I know most of you all out there know this, but we all know that there's a couple, I might need to remind and say, stalking is never the answer, everybody. So just take a note, no stalking.

But what we recommend is, and hopefully some of these systems were in place prior to COVID because these same rules applied prior to COVID. So if somebody was going to go work in Virginia because they had an aging parent who needed some help while they were transitioning to an assisted living home. At that time pre COVID years ago, let's how long it feels, you would have had to know and understand how long, what are Virginia's payroll taxes, what are the rules, how many days in state.. So what we recommend really significantly is that there be very clear communication and process in place about how employees should communicate and when they should.

For example, we have something in our firm called an intranet. And so that's how we do a lot of our internal communications through that. So our in-house HR team gave a really great communication saying, if you are going to be working outside of your generally accepted home base, we already had some employees who were full-time remote working in out-of-state locations. But if it wasn't somebody who already did that and you're going somewhere else, here's when you need to notify us. And here's the process to do that. I do think that it's okay to communicate to your managers, but you don't have to, at every single one-on-one meeting and ask them, where are you working this week, what are you doing this week? So the employer's obligation is to effectively communicate, not just say I mentioned it in a meeting one time but then they didn't tell me, so I don't have an obligation. So the employer has to be able to say we effectively communicated it.

Brenna Ramy:

I would say, and Leah, jump in here if you think differently, I would say more than one way how we talk about how people tend to actually have to hear things anywhere from three to seven times to really understand something. As a parent, I can affirm that my children need to hear something a lot of times. But you might miss somebody at a meeting, somebody is distracted during the meeting, somebody is listening to you and emailing, whatever it might be. So I would recommend communicating at least one, two, three ways, but you need to communicate how they should do that and the expectation.

I think we're seeing a lot of employers that say, if you're going to work outside of your home location beyond two weeks. So they set a timeline so that you don't have managers coming to you saying, I'm going to go to the cabin for a long weekend and my cabin is in Wisconsin. So what do I need to do? That's not, in most cases, going to be something you need to adjust for payroll taxes. But give a clear outline of when they need to and what that process is.

Leah Davis:

I would add too, that it's important for employers to just kind of list off the things that could be impacted by remote work in somewhere other than your already established, as an employer. So we're talking about payroll taxes, state withholding, state unemployment. Some states also have mandatory disability insurance. We're talking about business licenses, labor laws, workplace posters, workers compensation, some states have specific work comp rules and regulations, you've got your state and local paid leave laws, sick safe leave, parental leave and different state and local. So we're located in Minnesota. We can automatically approve an employee to go work in Duluth for the summer without understanding that they would then be entitled to the sick leave laws within the city limits there. Same thing with Minneapolis and St. Paul. Also things to think about are minimum wage laws in different state and local places, as well as exempt, non-exempt classifications and exemptions when someone can be considered exempt or must be considered non-exempt. So those are really important.

And then the last part is that every state is different as to when they determine that switch to be flipped, and when these different regulations turn on. Some states, it's hour one, and some states they have to be working there for more than two weeks or 30 days. So we really have to be on our game. And I think it's important that we know ahead of time if employees are relocating because that's a bad scramble on the backend to try to play catch up if you haven't been made aware ahead of time.

Tamara Hastings:

There's so much to consider for that, and I think that not a lot of people are factoring those in, when they say I want to go work from somewhere. They don't realize the impacts that it has on the business and all the research required, and the money involved and applying for a lot of these things.

Tamara Hastings: One thing that I think is really important is educating employees, not only for our HR employees and our business owners but educating the employee. So if they come to you and say, can I work from somewhere else this summer, have that conversation with them, but then also explaining it, instead of just saying no, we're not allowing that, that's not what we want to do, but educating them on the impacts of the business and the things that have to be researched. Because when I hear you talk about that, it makes so much sense, and it's such a long list of the things that are impacted and that we have to spend time and money doing. But employees aren't just going to know that. And when you explain it, I think it gives them an understanding of why the business is making that decision.

Brenna Ramy: I think the average employee just assumes it doesn't matter where they work. I mean, truly, they just think, why does it matter if I'm in Illinois for two weeks? My brother-in-law was going to work from his RV for awhile. And I was like, here's why that matters. They just don't know that that causes a whole bunch of things on the backside, that oftentimes are achievable, but take time and energy and planning in a workday.

Leah Davis: They also don't understand how it might impact their individual tax return. So if their employer is doing it right, that employee will have in theory, withholding in more than one state in which they've maybe never had to file a state income tax return. And now H & R block becomes not quite as simple of a solution, and they may have to end up with professional fees just to get their tax return completed. So lots of things to consider.

Tamara Hastings: Good point. Leah, you mentioned a lot of pieces from the tax side, business licenses, payroll requirements, and all of those. Are there other things outside of those that we need to consider and factor in before we approve these requests?

Leah Davis: So you've got these required pieces and then there's just general logistics, and if we're going to approve this change in workplace, how can we ensure that we're still going to maintain performance and productivity in the new workplace? I'm not going to lie, I'm not going to get much done in my Adirondack chair, staring at the mountains, with lots of breaks, and bad internet.

Things that employers should be thinking about are privacy and data security from where that those employees are going. Is there internet reliability? Will they actually be able to take video calls, if they're saying they're going to participate in meetings remotely. What impact might it have on just overall engagement, ergonomics and safety. Are we running into work comp issues if they don't have a good office set up and that's something that we're not able to support and manage? Are we setting precedent? We're going to need to be sure we're being consistent about when and how we're approving these types of things. It's not that it has to be a free for all and for everybody anywhere. But we need to have sort of some structure around when and why we do approve these types of things.

Then also to be thinking about expense reimbursement. So there are some states that require employers to reimburse for internet expenses, those types of things. So employers need to be aware of that if they're going to be working from somewhere else, and even though you may not have reimbursed in your current state, you need to be paying attention to how you're going to handle that in that employee's new work location.

Tamara Hastings: So Brenna used the word achievable, and as I'm listening to this, it is achievable, correct. There are hurdles to this and there's things that we have to factor in in our consideration. However, let's say I'm a business owner and I'm listening to this and I am just overwhelmed by all the things that we need to do or already busy, and I'm just considering not allowing this, everyone has one location in their home that they work from, and that's where they need to stay. If I'm going to make that decision, are there considerations there or concerns that I need to factor in?

Brenna Ramy: I think there are two major ones that I would say to take into effect. And the first is, the likelihood that people were already doing it. And they're going to say, well, have you not been following these laws this whole time? So the question of in the last year, I think all of us could list off so many people that we know that were working in different locations. The amount of people that I know whose families went to work in warm locations, and sadly mine was not one. My husband is not able to, as he is a woodworker in a shop so that wasn't going to work. But they're doing it already.

So when you talk about employee morale and engagement, when people were doing things for at least a year at this point, and all of a sudden, you're going to say it's not going to work because candidly, the answer will be we don't want to, we can't, or we don't have a person to do the work to set it up. That is going to be a real hard pill to swallow when it comes to employee morale and engagement. I think there will be employers who choose to make this decision. And what we say is that's okay, you can do that, but have a strategy and know ahead of time, get a clear communication plan, and have a clear answer that's transparent about why you're not going to do that. Perhaps the answer is, that we've looked into this, and at the end of the day, we don't have the bandwidth to actually do this in a way that's compliant with what our expectations would be in another state. So until that time, here's why we're not going to, and here's what the options are. You can work within the state or you can, be committed to doing Minnesota and Wisconsin because we have people in those states already. We already have those set up and we don't have to put more resources to somewhere else.

So talking about that, I think the other thing that comes as employee morale engagement is recruitment. So if anybody has spent any time out in job postings in the last couple of months, a significant portion say remote work available. So work from anywhere. So it's becoming just like free lunches, ping pong tables, fun stacked fridges used to be a recruitment tool. Now the recruitment tool is work from anywhere, remote work a hundred percent of the time, choose your location. So if you're not going to do that, truthfully, you will impair yourself in the recruiting market and you will limit some of your candidates for that position. There are good reasons for that sometimes, but to just again, go in knowing.

I think the other thing too, is that we just need to accept and be honest, that employees are not always going to be honest, if you say no. So it's very easy to have whatever background you want on Zoom and Teams calls these days, perhaps using Google Meet or any of the other programs that are available, it's very easy to have your background be whatever the heck you want it to be. So your employees could be working from anywhere and just lie to you about it.

Brenna Ramy: Those are just some things to think about that doesn't mean that should stop you from making that decision. But my question to employers is always, have you been able to make it work the last year? And if so, explain to me how an employee would be, pretend like I'm an employee, and help me understand in a way that I feel good about why I'm not going to be able to in the future. And that's a good litmus test because if it's just, we're just not prepared for it. Well, then I think employees are going to push back and say, figure it out. I think just to know and be really thoughtful and strategic in your reasons why you're saying no, instead of just a knee-jerk reaction of, this is too much, that list is overwhelming to me. I'm going to ostrich head in the sand. I think that that's what we encourage people.

Tamara Hastings: So we have factors on both sides, and I know we've talked about a lot of different considerations, yay or nay. So let's put this all together and let's say, I want to offer some flexibility and some options, but also be mindful of all the different rules and laws and guidelines that I need to follow. And so I want to take some of this on, but not so much that I spend my entire summer trying to research business laws and taxes. What are some options that I have to balance this, to offer some flexibility to my employees and still have that be a great recruiting tool, but also mitigate my risk.

Leah Davis: I think if you kind of wrap up everything we've kind of been talking about, some key takeaways are be proactive, get your messaging right. There's a way to talk about this in a way that isn't de-motivating for employees and helps them kind of understand where you're coming from and put some parameters around it, be honest, and encourage them to come to you before they relocate. We just want to know about it ahead of time so that they'll share their plans with us and we can work through that.

The second is, it's okay if you, as an organization, determined there's a few states that aren't an option for us for one reason or another. I'm hearing employers saying we'll accommodate as much of this as we can, but we can't do California, New York or New Jersey. That's okay. Just be candid about it with your employees and try to help them understand the reasons why.

The other thing is to have a real good process in place. So you've communicated, employees are starting to come to you with these requests, make sure you have just a structured process that you can follow of where am I going to go, how am I going to get the information, and what's the resource I'm going to use to find out what my obligations are? I think that's an important part of it too.

The other thing to kind of keep in mind, is to have an idea of how long. So for instance, Brenna talked about, we want to know about leaves that are longer than two weeks, let's just say. What if an employee comes to you and says, I want to work next winter from Scottsdale and I'm going to be there for six weeks, so I'm letting you know ahead of time. If they're the only employee that's going to do work in that state, I think an employer does need to weigh the pros and cons of going through, setting up all of those payroll tax accounts, getting informed, getting up to speed, filing the extra returns for a six-week stint. So they're going to have to have almost kind of like an accommodation conversation with some of these employees for some of these short-term remote work arrangements.

Leah Davis:

So make sure you have a checklist of all the things you're going to check off and any particular timeframes or locations that could be a hurdle. Communicate and educate employees again on why there's certain locations or timeframes that aren't going to be approved necessarily. So if it's cost and time prohibitive, just tell them that and help them understand that so that it doesn't feel like they're just getting a no every time they come to you. It's a balance. This is a real value add for a lot of employees. And so I think there's a lot of benefits for employers to do their very best to try to accommodate these things. So I think we just need to have a plan. It reminds me a little bit of sales and local tax issues where now whenever everyone doing business across the internet and all the different states, it seems very overwhelming, but the IRS has really said we don't care. Go ahead and comply. So it's just a matter of getting a process in place.

Tamara Hastings:

I like the idea of it being a value add and remembering that because, you know, as we hear all of this, there are a lot of challenges, but it is a huge value add to a lot of people and it can be something that you can offer your employees that can make them really appreciate their job and really want to work harder for your team. And so it's important to remember that and balance it, and of course in HR, we always go back to fairness and consistency and remembering that if you make this decision first for your best, star employee, make sure that you're also willing to have the same conversation with someone who might be struggling, who isn't your best employee, and just make sure you're willing to have that conversation across the board is also really important. I love these conversations. I'm so excited that we're able to have them and talk about these issues in a way that's just very conversational and gives us all things to consider. I appreciate you both Leah and Brenna for being here to talk about the topic we of course will be back next month and we're going to have a timely topic. We're going to talk about summer interns, seasonal employees, volunteers, and how to classify those different types of workers in different organizations. So thanks for listening everyone. We enjoy doing this and having you here and join us again next month for the next episode of Beyond the Mic.

Thank you for Listening!

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