



remote work blurs boundaries

Working Remotely Triggers Immigration Compliance Regulations

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In the wake of a range of "safer at home" federal, state and local orders and guidelines stemming from the COVID-19 pandemic, employers throughout the United States have temporarily closed their offices to varying degrees and instructed their employees to work remotely, usually from home. Companies with employees working in the US pursuant to the temporary visa categories H-1B, E-3 (Australian citizens) and H-1B1 (citizens of Singapore and Chile) are required to take extra steps to ensure compliance with immigration laws and regulations when those employees are working from locations outside of their normal worksites.

U.S. Citizenship and Immigration Services (USCIS) and U.S. Department of Labor (DOL) regulations distinguish between those employees working in the same area of intended employment, which is usually within roughly fifty (50) miles of the office, and those employees working on short or longer term placements outside of this geographic range. For employees working within normal commuting distance of their regular worksite, without other changes in the nature or conditions of their employment, there is no need for additional filings with government agencies but there are technical compliance measures that must be taken within thirty (30) days of the change in worksite location. For employees working further outside of the area of intended employment for more than sixty (60) days, there are regulatory requirements for new filings with both agencies, USCIS and DOL. Assignments of less time which meet certain requirements including employer payment of travel expenses have lesser requirements though wage issues must always be reviewed. In addition, There are notice requirements which continue regardless of the current situation and employers must be wary of failure to comply.

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practice areas

immigration