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McKenzie.**



Maximizing Workforce Agility in the Long-Term

Designing Your Company's Permanent Remote Work Program | August 6, 2020



Welcome!

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Forbes

17,068 views | May 20, 2020, 09:01pm EDT

Can We Just Work From Home Forever?



Nathan Pettijohn Contributor

The New York Times Magazine

What If Working From Home Goes on ... Forever?

Miserable as it can often be, remote work is surprisingly productive — leading many employers to wonder if they'll ever go back to the office.

By Clive Thompson
June 9, 2020

FAST COMPANY

05-22-20

Here's an ever-growing list of companies that will let people work from home forever

c|net

The new work-from-home policies at Facebook, Twitter, Apple and more

Tech giants are typically known for expecting all employees to be at their desks each day. That may permanently change with the coronavirus.

npr

1:00 a.m. PT

Get A Comfortable Chair: Permanent Work From Home Is Coming

June 22, 2020 · 12:26 PM ET
Heard on [All Things Considered](#)

CNBC make it

So your company has said you can work from home forever—now what?

Published Wed, May 27 2020 1:15 PM EDT



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FORTUNE
SURVEYED
THE CEOS
OF THE
2020
FORTUNE
500
LIST ...
AND HERE
ARE THE
RESULTS.

Q. THE SINGLE MOST IMPORTANT THING THE
CRISIS TAUGHT ME IS (OPEN-ENDED)

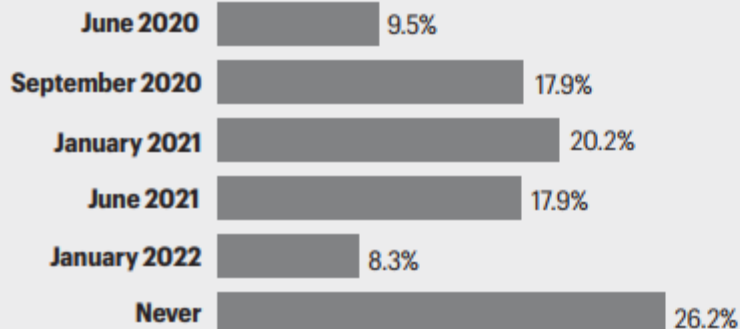
"A business
cannot wait for the
transformation it
knows it needs."

"Working
from home
works."

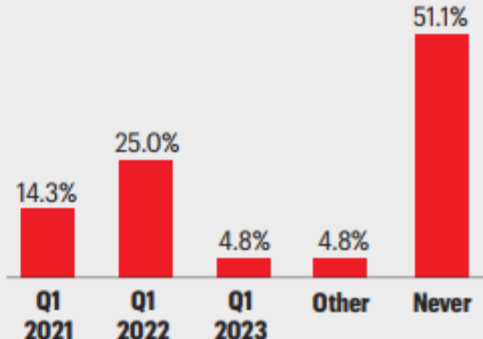
"Leadership and
values matter always,
but especially in
a crisis."

"The meaning
of the word
essential."

Q. WHEN WILL AT LEAST 90% OF YOUR **WORKFORCE** HAVE
RETURNED TO THEIR USUAL WORKPLACE?



Q. WHEN WILL **BUSINESS TRAVEL** AT YOUR
COMPANY RETURN TO THE LEVELS IT WAS
BEFORE THE PANDEMIC?



Benefits of Permanent Remote Work

- ✓ Reduced footprint / real estate costs
- ✓ Mitigates COVID-19 / health & safety concerns
- ✓ According to Global Workplace Analytics, "a typical employer can save about \$11,000 year for every person who works remotely half of the time." And workers can bank between \$2,500 and \$4,000 a year working remotely half time.
- ✓ Access to a wider talent pool
- ✓ Flexibility for employees > improved retention > competitive advantage
- ✓ Increased productivity. A Global Workplace Analytics survey shows 77% of workers say they're fully productive at home. And managers are largely satisfied with their work performance.
- ✓ Commuting less is better for the environment

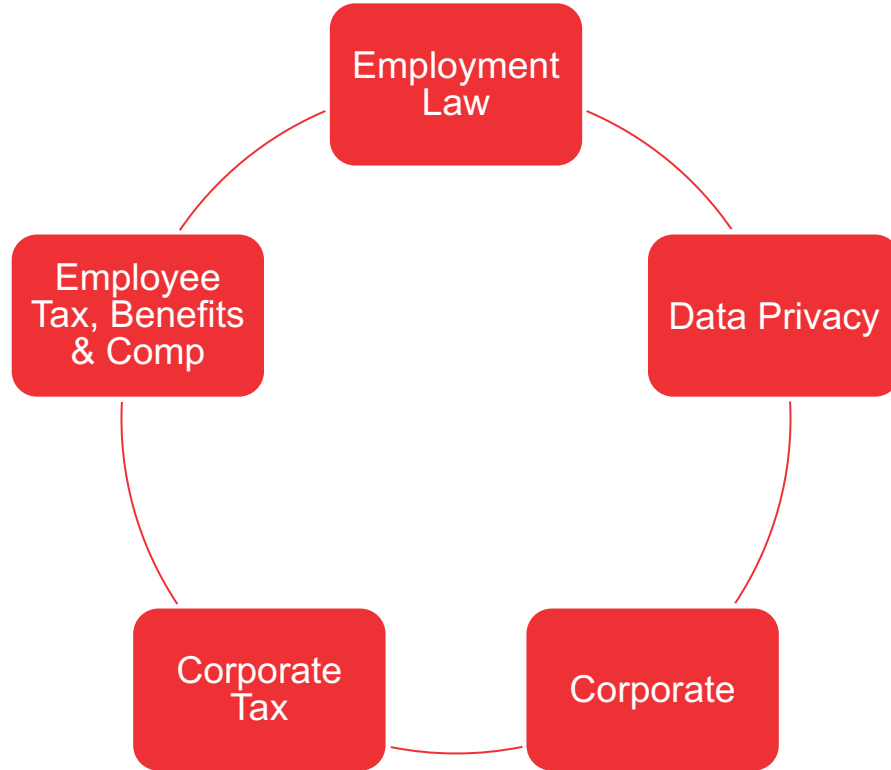
- ❖ *What do you see as the primary benefit?*
- ❖ *What motivates this transition at your company?*

Challenges of Permanent Remote Work

- ✓ Maintaining culture and engagement
- ✓ Collaboration with colleagues can suffer. You can feel lonely and isolated.
- ✓ Compliance with local laws where employees work

- ❖ *What challenges do you see?*
- ❖ *What are the biggest hurdles to this transition at your company?*

Navigating the Implications of Designing a Permanently Remote Policy



Employment Law

✔ Consider General Employment Law Implications

- Headcount triggers: transferring employees to a new location may trigger additional employment law obligations based on the company's increased headcount in the location
- Equal pay / pay equity reporting
- EEO-1 reporting
- State / local requirements (e.g. state disability leave, sick leave, vacation requirements outside of the US)
- Reasonable accommodations

✔ Design a Remote Work Application Process

- Develop template application requirements, such as minimum seniority, excluded positions, interview with management in the new location, whether a justification is required, etc.
- Define eligible locations and decide whether to implement headcount limits
- Establish objective criteria for accepting / rejecting applications to avoid discrimination or unequal treatment claims
- Communicate tax consequences to applicants
- Understand that the employer, in most jurisdictions, will have an income tax and social security tax withholding and reporting obligation

Employment Law (cont'd)

✔ Craft Remote Work Policies and Procedures

- Salary / cost of living adjustments
- Costs / equipment
- Timekeeping
- Rest periods
- Update business travel policies.
- Information security: Remote working carries increased risks of misappropriation of confidential information and loss of trade secret status

✔ Prepare for Onboarding

- Draft employment documents
- Understand that remote workplaces must comply with local workplace health and safety laws
- Consider mandatory insurance policies in each location

✔ Terminate Existing Employment

- Final pay requirements: employees must be paid their final pay on termination in accordance with applicable law
- Account for employment accruals for intra-country transfers
- Consider the budgetary impact: termination costs for transferring employees may increase the Company's short-term costs and impact budgets

✔ Plan for Workforce Integration in New Location

- Align compensation with local workforce
- Align employee classification with local workforce
- Determine new reporting lines and evaluate the impact of the transferring employee on other employees

Benefits & Compensation

✓ Assess the Tax Consequences

- Transferring employment may result in adverse tax consequences related to multi-year compensation programs
- Determine how much communication regarding potential tax impact of relocation (consequences of becoming tax resident in another jurisdiction)

✓ Consider General Compensation Implications

- Consider policy on compensation adjustments for specific locations and whether the policy is tied to “office location”
- Consider the budgetary impact. Benefit costs for mandatory/statutory and voluntary benefits vary between jurisdictions. Since the transferred employees will be put on local benefits, this may impact employer insurance costs and retirement plan contributions

✓ Determine the Transferring Employee's Benefit Eligibility

- Diligence should be completed on the various local benefit programs offered at the qualifying locations to confirm there are no significant issues (including waiting periods to qualify) in adding employees who have internationally relocated

✓ Determine the Impact on Retirement Benefits

- Termination of employment may entitle the transferring employee to take a retirement plan distribution or trigger a distribution of retirement benefits under the terms of the retirement plan or local law
- Alternatively, plans that require waiting until retirement age, generally require the participant to remain in the same country to obtain optimal tax treatment of benefit

Share-Based Awards

✔ Consider General Share-Based Award Implications

- Headcount triggers: transferring employees to a new location may trigger additional compliance obligations based on the company's increased headcount in the location
- Consider grant sizes: if the company determines the size of grants based on employee location, future awards may be larger/smaller than prior awards granted to employee. This should be communicated to employee before relocation

✔ Review Legal Compliance

- Evaluate whether any compliance filings must be amended to reflect transferring employees.

✔ Review Employee Stock Purchase Plan Issues

✔ Ensure Tax Compliance

- Double Taxation: transferring employees with outstanding equity awards likely will remain subject to tax on at least a portion of the award income in the old country (i.e., trailing tax liability), while also becoming subject to tax on the (full or partial) award income in the new country
- Depending on the countries, the old and new employer will have reporting and/or withholding obligations with respect to the award income. Double tax issues may arise but can typically be alleviated through application of foreign tax credits
- Consider new withholding rates: employees transferring between different states/ provinces and countries will become subject to different tax withholding rates on award income.

Corporate Tax

- ✓ **If employment relationships change, assess the impact on the intercompany arrangements for provision of services**
- ✓ **Review Permanent Establishment Risk**
- ✓ **Manage Risk Related to DEMPE activities**
- ✓ **Account for Intangible Transfers**
 - When a valuable employee changes employers, from one group entity to another, consider whether a compensable transfer has occurred for tax purposes
- ✓ **Evaluate Whether Any Transfers Will Result in a Change of Location of "Contract Concluding Activities"**

Data Privacy

✔ Get Employee Consent

- When employee requests to change employer, from one group entity to another, new and old employer should obtain valid consent

✔ Consider Employer Monitoring

- Employers must minimize data collection via employee monitoring technologies to avoid disproportionately affecting employee and non-employees in the same household

✔ Provide Notice

- Employers must provide privacy notices regarding data in employee file, employee monitoring, BYOD, and whistleblower hotline in compliance with privacy laws applicable to employer entity, employee and employment contract

✔ Review and Update Intercompany Data Transfer and Processing Agreements

Corporate

✓ Comply with US Doing Business Registration Requirements

- If employees move to US states in which the company is not registered to do business, employees working from home could trigger the doing business registration requirements

✓ Comply with Outside of US Doing Business Registration

- Understand that to the extent the number of employees in certain countries increases as a result of remote working arrangements, there could be an increased likelihood of triggering the local doing business registration requirements such that registering a local corporate presence (branch or sub) would be prudent

Contact Us

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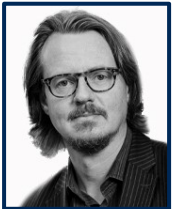
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Thank you!

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