

Background & Frequently Asked Questions (FAQs) About Employees Working Outside of Arizona

Background Information & Change Management

If a State of Arizona employee performs work outside the state of Arizona, the employee is subject to the laws and regulations for the location where the work is performed by the employee. These laws can be state, county, city, school district, country, etc. They may also vary depending on the job classification or other factors. Additionally, laws and requirements can change on a regular and on-going basis.

Reviewing the requirements for various locations, ADOA has found that the laws and regulations can vary and may include unique circumstances and situations that do not exist in Arizona. For example, a location may have a requirement to pay income/payroll taxes on the first day work is performed. Another difference could be requirements and definitions for exempt and nonexempt employees (sometimes for particular job classifications). Some locations have daily overtime, which means a non-exempt employee working 4-10s would incur 2 hours of overtime, daily. There are also locations that, depending on the convenience rule, the employer must pay the employee for the employer's use of the employee's costs for internet, phone, utilities, furniture, possibly rent, etc. There can be differences in required employee notifications, eligibility for certain types of leave, and requirements for time to pay dismissed employees. These are only a few examples of some of the differences. Some locations may only have tax differences, and some locations could have extensive differences that would require many changes and costs. Additional consideration topics have been included in SAAM 5534, *Remote Work and Virtual Office Employees*.

These laws, rules, and tax requirements can vary by remote work location, and for each employee, sometimes based on the job classification. While ADOA can help provide information about known laws, rules, and regulations at the time a request is presented, it is the agency's responsibility to be aware of and follow all laws, rules, and regulations for the locations where the agency approves their employees to perform work. If an agency is going to allow its employee to work outside of Arizona, the agency is responsible for knowing, following, and monitoring any changes to all the laws and requirements for that particular location and individual. The result of not complying with these laws could result in not only fines, penalties, and additional costs, but also the possibility of misdemeanors and felony charges which may include possible imprisonment.

ADOA-GAO will collaborate with an agency by providing the information ADOA-GAO has gathered regarding the location requested on the Form GAO-75. ADOA-HR has provided a list of resources to consult for HR information. ADOA highly recommends that agencies perform their own additional research for the particular location where their employee is working outside

Background & Frequently Asked Questions (FAQs) About Employees Working Outside of Arizona

of Arizona, especially as the agency has the particular information which could impact the requirements for that particular individual prior to granting permission. Additionally, on-going research should be conducted at least annually to be aware of any changes or additional laws or requirements, as laws and regulations can routinely change. Ultimately, agencies must evaluate the amount of work, risk, and costs required to permit employees to perform work outside of Arizona. Agencies must determine if it is fiscally responsible and in the best interest of the State to allow that hiring practice or employment decision.

Questions about the Form GAO-75:

- **What is needed for the employee to complete the form GAO-75?**

Download the form GAO-75 and open using Adobe Acrobat Reader. Do not open and complete the form using a browser.

All signatures contained in this form can be completed using Adobe Acrobat Reader to provide a digital signature where applicable. It is available for download on all devices either as an app or software program. A digital signature token may need to be acquired to sign this document. Contact your agency IT department if you need assistance with downloading Adobe Acrobat Reader or establishing a digital signature.

- **Why does the Form GAO-75 have to be completed now?**

Many states waived their nexus rules for residency and remote workers due to COVID. However, many of these nexus waivers in these states have expired on September 30, 2021. Additionally, the State of Arizona, as an employer, has the responsibility to ensure compliance with all employment and tax laws where employees perform work.

- **What if the employee doesn't know the exact out-of-state virtual location?**

If an employee has submitted a request to work outside of Arizona and the physical address is not known, the employee should complete as much information as possible on Form GAO-75 and begin the process. Once the employee is able to confirm the exact location, the employee should contact the agency's Chief Human Resources Officer/Administrator immediately to update the Form GAO-75 in order to complete the process.

- **Why does Form GAO-75 need to be emailed to OutsideAZWork@azdoa.gov?**

ADOA must be notified to ensure that HRIS is set up to accommodate any new location. ADOA-GAO will have all state tax authorities set up; however, there may be specific county, city, school district, or special taxes (i.e. transit taxes) that may need further HRIS setup, which will require additional time to be established. Additionally, ADOA will

Background & Frequently Asked Questions (FAQs) About Employees Working Outside of Arizona

collaborate with the agency with known information regarding a particular location. Agencies should perform additional research and verification as relevant laws, rules, and regulations can change at any time. While ADOA-GAO may not know all the relevant information that may be needed, ADOA-GAO will share the information it has. Lastly, the agency needs to inform ADOA of the final agency approval so that the employee's record can be indicated in HRIS to allow for the agency to make the necessary changes in HRIS for non-Arizona tax withholdings.

- **Is there an exception to completing the Form GAO-75 approval process?**

The only way to avoid having to complete the Form GAO-75 process is to not allow any employee to perform work outside the State of Arizona. Employees are only allowed to work outside the State of Arizona with the Agency Director or Deputy Director's approval. If an agency has employees working outside of the State of Arizona, the agency must be in compliance with the laws of the locations where employees are performing work for the State of Arizona.

- **What if an employee refuses to complete Form GAO-75?**

Employees who work outside the State of Arizona must have an approved Form GAO-75. If an employee refuses to complete the form, the agency should take appropriate action, which may include any necessary disciplinary action up to and including dismissal.

- **Will the Agency need to have employees complete a new Form GAO-75 annually?**

A Form GAO-75 is not required if the employee stays at the same address. A new form will be needed if the employee requests to move to a new location (this could include city, state, county, school district, etc.) Agencies should regularly review (at least annually) the location laws to make sure the State remains in compliance with all laws and any changes. A Remote Work Agreement (RWA) is required to be renewed annually for each remote employee and should be resubmitted whenever an employee has a change in work location.

Questions about the Process:

- **Are employees currently working outside the State of Arizona already grandfathered in?**

No, all employees working outside the State of Arizona must complete a Form GAO-75 so that the proper documentation is obtained, the necessary certifications and research is performed, and most importantly the State takes the required actions necessary by

Background & Frequently Asked Questions (FAQs) About Employees Working Outside of Arizona

law. Such required actions include making the necessary changes in HRIS to apply proper employment law and ensure that proper tax withholdings are remitted and reported.

- **How long will it take to get approval for an employee to be able to work outside the State of Arizona?**

It depends on how long it takes for each step to occur. If the location is a new location where the State does not already have a taxpayer ID, it may take additional time to establish. Since this is a new process, the first time through the process for each location will most likely require additional time. Please plan accordingly.

- **What if the employee only wants to perform work outside of Arizona for a limited period of time, while not in travel status (e.g., one week or month at employee's request to stay with family or friends or to visit the beach, mountains, etc.)?**

The form has start and end dates if applicable. Since there can be ramifications that begin on day one, the form must be completed and the analysis performed for that location. The Agency Director/Deputy Director can then make an informed decision.

- **Will an employee already working out of state be forced to move back to Arizona or be separated from State service?**

An employee will not necessarily be forced to move back to Arizona or be separated from State service. Such a decision will be up to each Agency Director or Deputy Director upon review of the employment and tax law considerations of the virtual work location.

- **Who has the ultimate authority for approving an employee to work outside the State of Arizona or outside the United States?**

For work outside the State of Arizona and within the United States, the Agency Director or Deputy Director. For work outside the United States, the ADOA Director. Note there are additional considerations necessary for an employee to work outside of the United States which may require additional engagement with international employment and tax law specialists. It is recommended that the Agency contact the Attorney General's Office for assistance.

- **Is there an outside resource that can do the research for the State?**

At this time, the State does not have an outside resource to research the employment and tax law considerations for each virtual location. Agencies may need to check with legal counsel, especially if considering having an employee perform work outside of the

Background & Frequently Asked Questions (FAQs) About Employees Working Outside of Arizona

United States. Some available HR resources for research are listed under Research and Assistance Topics below.

- **What are the next steps after a Form GAO-75 has been approved by the Agency Director/Deputy Director?**
 - **ADOA Central Payroll:**
 - Setup any necessary tax locations for withholdings
 - Notify ADOA Human Resources
 - **ADOA Human Resources:**
 - Update Outside AZ Work Flag
 - Update Pay Plan on Position (if applicable)
 - **Agency Human Resources:**
 - Prepare Employee Information Packet** for the employee
 - **Contents of the Employee Information Packet will typically include:**
 - A: Required Notices and Posters
 - B: [State Tax Websites](#) (1 page document)
 - C: Information regarding any differences for the particular location
 - D: Inform process/permission for requesting and returning supplies and/or equipment
 - E: Travel considerations/costs if required to attend meetings in AZ
 - F: Work schedule (Arizona time)
 - G: Any other necessary documents appropriate to the work location
 - CHRO: Gives Information Packet** to the employee
 - **Employee:**
 - Complete tax form and submit it to the Agency Payroll Office
 - Complete Remote Work Agreement (RWA) in Y.E.S.
 - The RWA has been updated to allow for entry for virtual locations outside the State of Arizona.
 - **Agency Payroll:**
 - Enter employee's State Tax Withholding form in HRIS
 - See Agency Payroll Specialist - Taxes HRIS Training
- **What effective date should be used on the request?**

The effective date should be the current date or a future date. Approval can not be granted in the past.

Background & Frequently Asked Questions (FAQs) About Employees Working Outside of Arizona

- **How does an approval to work outside Arizona affect the employee's benefits?**

It is the employee's responsibility to review their benefit elections and determine how their coverage will be affected by working virtually outside Arizona. Additionally, the employee must understand that working outside Arizona is a Qualified Life Event (QLE) for some but not all coverage as per the Change in Residence information on benefitoptions.az.gov/qlc. If the employee has questions about their benefits or QLEs, please refer them to the Agency Benefits Liaison or contact HR-Benefits at 800-304-3687.

- **When is a new request required?**

A new request is required when there is a change in the location or dates of the request.

- **What is the effective date that taxes will be withheld from the approved location?**

Taxes will begin to be withheld for the Home Address on file when the Outside AZ Work flag is indicated as "Yes",. If no tax election forms have been entered by the Agency Payroll Office, the default rates will be withheld.

- **If an agency offers a Remote Work Stipend, where will that be indicated?**

Currently, there is a User Field labeled "Remote Wrk Stipend" will be populated on the employee's record on HR11. Employees can either be indicated as Remote with Stipend (REM-W-STP) or Virtual w/Stipend (VIR-W-STP). This will depend on the Agency's Remote Work Stipend Policy. *Note: Remote Work Stipend Policies must be reviewed and approved by GAO before they can be implemented.

- **How is the User Field Office Assignment used?**

The user field "Office Assignment" was created to assist with determining building occupancy and to identify opportunities for agencies to reduce their footprint. Instructions will be issued by ADOA Human Resources Division on when and what value to populate in the Office Assignment field.

- **Is there anyone in ADOA who can provide assistance if an agency has any questions?**

Agencies can email questions to OutsideAZWork@azdoa.gov.

Background & Frequently Asked Questions (FAQs) About Employees Working Outside of Arizona

Research Assistance and Topics

- **Are there any resources for an agency to use to help with their research?**

<https://www.dol.gov/agencies/whd/state/contacts> is a great place to start. This is the Department of Labor's State Labor Offices webpage of links. ADOA also suggests using search engines for the location and topics.

Human Resources information can be found on

- [US Department of Labor - State Labor Laws](#),
 - [Employment Law Handbook](#),
 - [NOLO.com](#), and
 - [SHRM Multi-State Law comparison tool](#) (SHRM membership required).
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- **What kind of documents/processes should be updated by the agency to prepare for outside the State of Arizona workers?**
- Human Resources: Information packets at the agency-level may need to be created to include state-specific employment benefits for the approved virtual work location (employment/onboarding packets, required employee notifications, required posters etc.). Employees that are hired outside and remain outside the State of Arizona should receive the appropriate state onboarding and information packet.

Payroll: The [State Tax Websites](#) located on the GAO website in the Agency Payroll Guide (APG) for employees to obtain the tax withholding form for their State. Employees working outside the State of Arizona cannot update their tax withholdings through Y.E.S. Tax withholdings must be filed on paper and submitted to the Agency Payroll Office for entry into HRIS.

- **Does this mean an agency can hire from outside the State of Arizona? How will this impact the hiring process?**

An agency can hire an out-of-state employee; however, the employment and tax laws must be considered when doing so. Completing Form GAO-75 will highlight these considerations and relevant requirements of the virtual work location being requested. The time necessary to complete the Form GAO-75 process and obtain the required prior approval should be considered in the hiring process.

- **Can an agency perform an I-9 verification in other states?**

The State of Arizona utilizes Form I-9 and E-Verify to comply with requirements of the United States government. All individuals hired at the State of Arizona must complete a federal I-9 form within three days of hire. In many cases, physical inspection of I-9

Background & Frequently Asked Questions (FAQs) About Employees Working Outside of Arizona

documents can be arranged in the out-of-state location for a fee. Equifax is also an option at an additional cost to the agency. Contact ADOA HR for additional information.

- **Has ADOA already captured the information for all the locations that agencies can reference?**

ADOA-GAO has started to gather information for various states. Due to the number of locations, the volume of information, and the probability of ongoing changes, this is a large, ongoing task. ADOA-GAO has limited resources to dedicate to this. Each agency with employees performing work outside of Arizona has an ongoing responsibility to remain in compliance regardless of ongoing changes. It is beneficial for the agency to know where to locate the necessary resources and information. As a result, both the agency and ADOA should collaborate and communicate findings in order to have the most accurate, complete, and timely information available.

- **Why is it important for an agency to know all the considerations required for a virtual work location outside the State of Arizona?**

The State of Arizona is responsible as the employer to make sure the State and its employees are in compliance with the laws of the location where its employees perform work. Non-compliance with these laws can result in potential lawsuits, penalties, and fines for the State and possibly the individual. The State of Arizona is one employer and the actions of one agency can impact all the other agencies.

- **Can an agency classify an employee working outside the State of Arizona as a contractor?**

The [IRS SS-8](#) is a good resource to determine whether a worker is an employee or a contractor. The fact that an employee is not working within the State of Arizona does not automatically classify the individual as a contractor. If there are additional questions regarding worker classification, please refer to [SAAM 9050](#) and [SAAM 9052](#). If after an evaluation it is determined that the individual is a contractor, then the individual's access to State systems must be in compliance with [SAAM 0540](#). Additionally, contractors do not receive State benefits.

HRIS Information - Human Resources

- **Where are addresses and the Outside AZ Work flag located? Who can enter and update these fields?**

The Outside AZ Work flag will be updated by ADOA HR upon the Agency Director or Deputy Director's approval of the Form GAO-75. The flag is visible on the HR11 Tax tab

Background & Frequently Asked Questions (FAQs) About Employees Working Outside of Arizona

and will be marked with a “Y.” Employees have the capability in Y.E.S. to indicate their Home Address, also known as their physical virtual work location (cannot be a PO Box), as well as, a Mailing Address (which can be a PO Box). It is critical that employees keep both of these addresses up-to-date at all times to ensure they receive critical notifications from the State to their Mailing Address. If the addresses are the same, employees will not need to enter a Mailing Address, as it will default to the Home Address.

- **For employees approved to work in a state with daily overtime, how is the Pay Plan (Overtime Plan) updated?**

The Pay Plan will be updated by ADOA HR upon the Agency Director or Deputy Director’s approval of the Form GAO-75. The Pay Plan is updated on the XP02/ZP02 Payroll tab. Once updated on the XP02/ZP02, it will be visible on the HR11 Assignment tab.

HRIS Information - Payroll

- **HRIS Information- Payroll: Where in HRIS can an agency find the location where taxes will be withheld and submitted?**

Once ADOA HR updates the employee’s Outside AZ Work flag on HR11 Tax tab, HRIS will determine an employee is responsible for taxes based on the employee’s Home State. An agency can also see the active tax deductions for an employee by using Drill Around.

- **How do employees working outside Arizona change their tax elections?**

In Y.E.S., a one page PDF has links to each state’s website to obtain a tax withholding form. The employee should complete the form and submit it to the Agency Payroll Office for processing. Once an employee is indicated for Outside AZ Work in HRIS, Arizona withholdings will cease. In most cases, agencies can update these taxes on PR13. However, some states may also require entry on PR14. The Agency Payroll Specialist - Taxes HRIS Training has been updated to assist Agency Payroll Offices with other state’s tax withholding form entry. Non-Arizona tax elections cannot be made through Y.E.S.

- **Which states are known to have daily overtime?**

New Pay Plans (Overtime Plans) have been created with the overtime rules for the specific state. If an employee is approved to work in one of these states, the Pay Plan on the Position must be updated to one of these new Pay Plans.

Background & Frequently Asked Questions (FAQs) About Employees Working Outside of Arizona

State	Pay Plan (Overtime Plan)	Description
Alaska (AK)	NEAK	AK - DAILY OT
California (CA)	NECA	CA - DAILY OT
Colorado (CO)	NECO	CO - DAILY OT
Nevada	NEVA	NV - DAILY OT

- Which states may have overtime requirements for FLSA exempt employees?**

In some states, even if an employee is FLSA exempt in Arizona, they may be eligible for overtime under state-specific overtime eligibility requirements. Sometimes it is based on the type of job the employee is performing. If an employee is approved to work virtually from one of these states, further analysis will be required to determine if they are eligible for overtime based on their profession.

Kansas (KS)	Maryland (MD)	Minnesota (MN)
New York (NY)	Pennsylvania (PA)	Washington (WA)

- What if additional considerations/costs are necessary to approve an employee to work outside the State of Arizona? What if exceptions to policy are necessary?**

Agencies will be responsible for making any accommodations that may be necessary as a result of an approval to work outside the State of Arizona and pay any additional costs and/or penalties or fines that result. If any exceptions to GAO policy are necessary, the agencies must request an exception annually as required by [SAAM 0015](#).

- What is the convenience rule?**

The rule comes into effect if the employee's workday location is for the employer's necessity rather than for the employee's convenience. Dual taxation can result, as well as, a requirement for the reimbursement of some work related expenses. The state where the employee performs the work and the state of Arizona both require income tax to be withheld.

Employees are treated as if they work in their employer's state if their work is performed elsewhere for what is termed the "convenience of the employer." Convenience of the employer can be impacted by what requirements and space is available at the employer's workplace and the requirement to have an employee to work remotely.

Background & Frequently Asked Questions (FAQs) About Employees Working Outside of Arizona

The State may have to pay the employee for expenses incurred by the employee in the remote work location to hold the employee financially harmless when approving work to be done outside the State of Arizona (i.e. in California: internet, phone, utilities, possibly rent space, and other reimbursements).

6 states currently have convenience rule (taxation):

Arkansas (AR)	Connecticut (CT)	Delaware (DE)
Nebraska (NE)	New York (NY)	Pennsylvania (PA)

Other states may have implemented temporary convenience rules during COVID.

Note that this is an area that has many different interpretations and has not been fully litigated. Over time, the laws and rules, and possible exceptions on this topic will probably change and be tested in the courts due to large numbers of remote workers in different states that have occurred since the pandemic.

Other Considerations and Information

- **Where can an agency get additional information regarding travel and relocation expenses?**

See existing SAAM policies regarding travel, long-term subsistence, and relocation reimbursements. The Agency should make it clear to the employee the location of the employee's home and duty station and how and when the employee will be eligible for travel reimbursement. Depending on the circumstances, some travel may not be eligible for reimbursement and some travel must be reimbursed. Travel and/or relocation reimbursements must be requested and approved in advance using the existing policies, forms, and processes already established. These reimbursements may or may not be taxable as defined in the policy.