

Hiring a Remote Worker either In- or Out-of-State Employee

In our post-pandemic enhanced technology world, many employers hire employees who work from a location other than the employer's place of business or the employee may reside outside of California. If your organization is considering hiring a remote worker, or non-California resident, here are a few things to keep in mind:

- **What minimum wage applies?**

If there is difference in minimum wage between employee's State of residence, location of employer and remote work location it is best to default to the highest hourly rate.

- **Which state employment laws govern?**

An employee working in another state is governed by the payroll laws of the state in which they are working.

- **How do we comply with the laws of the state in which the employee is working?**

The employer will likely need to register with the state, and perhaps local tax agencies. You will probably need to withhold income taxes from the state in which the employee will be working. Depending on the state, you may also need to register with the state's labor and unemployment agencies. Please contact Diocese Payroll Service for guidance on next steps to establish state payroll tax withholdings before onboarding the new employee.

- **Does the employer need to withhold California taxes?**

Not unless the employee physically works in California. If the employee travels to California to work, then both travel and workdays are subject to California wage, overtime, withholding, and other laws. It is the employer's responsibility to inform Diocese Payroll Service when taxes should be withheld.

- **Does the employer need to withhold taxes for the state of residence?**

If the state of residence has income tax, those taxes must be withheld. Before employment begins the employer should contact Diocese Payroll Service to obtain next steps for non-CA payroll tax account set-up.

- **What type of written agreement should the congregation include in its letter of offer?**

We recommend the following:

"Your primary duty station is in XX, although we may require you to travel to California for work from time to time. On any day that you are working in California, including a day on which you are traveling to or from California, we will apply the overtime payment and other wage and hour provisions of California law; if required by law, we may withhold California income and payroll taxes from compensation you earn on those days. For all other workdays, we will comply with the overtime payment and other wage and hour laws and the income and tax withholding laws in effect in XX under federal, state, or local law. You agree to notify us promptly if you move from XX to another state. If you move to another state, we will apply the overtime payment and other wage and hour laws and the income and tax withholding laws in effect in the new state."