

# When Should Employers Reimburse Expenses for Remote Workers?

By Kylie Ora Lobell

November 5, 2020

**W**hen the COVID-19 pandemic hit, many salaried employees around the world started working virtually from home. Many months later, the majority are still working at home and could be well into next year, if not permanently.

While employers typically provide a range of office supplies to remote workers, including laptops, keyboards and printers, employees often pay for additional expenses.

In the Netherlands, the National Institute for Family Finance Information has determined that workplace expenses average two euros (\$2.40) per worker per day, according to Reuters. Dutch authorities have since used this research to give government employees a 363 euro (\$429) COVID-19 bonus to cover items they would have normally received for free in the office, such as coffee and tea, toilet paper, and Internet access and utilities used during work hours.

Should U.S. workplaces follow suit? Are they legally obligated to? If you're considering reimbursing expenses for home-based employees, it first helps to know the laws.

## Federal and State Laws

Federal law states that employers only have to reimburse for work-related expenses ([www.shrm.org/resourcesandtools/hr-topics/employee-relations/humanity-into-hr/pages/4-more-covid-legal-questions-you-should-answer.aspx](http://www.shrm.org/resourcesandtools/hr-topics/employee-relations/humanity-into-hr/pages/4-more-covid-legal-questions-you-should-answer.aspx)) when these expenses drop the employee's earnings below minimum wage. Since so many people are working remotely now, employers will need to ensure that employees earning near minimum wage are not spending so much on expenses that their paycheck falls too low.

There are several states that require employers to reimburse for all necessary business-related expenses, including California, Illinois, Iowa, Massachusetts, Montana, New York and the District of Columbia (for more information, see SHRM's Multi-state Law Comparison Tool ([www.shrm.org/ResourcesAndTools/tools-and-samples/Pages/Interactive-Tools.aspx](http://www.shrm.org/ResourcesAndTools/tools-and-samples/Pages/Interactive-Tools.aspx))). Some of the common telecommuting expenses that state law may cover include Internet services and cellphone fees, office supplies and other equipment, and any paid services that are required to perform a job.

Even if your company is in a state that does not have reimbursement laws, it's ideal to reimburse anyway, said Robin Samuel, a partner in the Employment Practice Group of Baker McKenzie in Los Angeles.

"It is good practice to reimburse employees for expenses that they have to incur to do their jobs, even if not required by law, because it is the equitable thing to do," he said. "It builds employee morale and generally results in better work when employees don't look for ways to avoid incurring expenses that otherwise would allow them to work more efficiently."

While most states don't have reimbursement laws, "it's up to the employer to do the right thing," said Laura Handrick, an HR professional at Choosing Therapy in Brooklyn, N.Y. She said that many employers are saving money on office overhead, such as facilities maintenance and electricity, while employees are working from home.

"If they don't reimburse, it's as if employees took a salary cut. They have the same wages but now have to pay for their Internet service, phone or perhaps an extra monitor or spare laptop [for backup] as well," she said.

In California, which has largely been on lockdown, all expenses "suffered" by the employee on the behalf of the employer, whether they are authorized or not, need to be reimbursed, said Michael Trust, SHRM-SCP, human resources director at Sungevity in Temecula.

Trust said that most employers, including Sungevity, are reimbursing cellphone and Internet expenses on a proportional basis. "If the employee's Internet bill is \$90 a month [for Internet use only, not TV, DVR, phone, etc.], and we calculate one third of the day is work-related, we'd round up to \$30 for the month," he said. "If that was insufficient to cover the full cost, and the employee could show that, we could reimburse at a higher rate."

Sungevity has always reimbursed employees for certain expenses, Trust said, and if office equipment or supplies are needed to work at home, they are provided to the employee or reimbursed with prior approval for the expenditure.

In California, reimbursement also may extend to the use of an employee's car for work purposes, Samuel said, but not to expenses that employees would incur under normal circumstances.

"Some plaintiffs' counsel have suggested that employers also have an obligation in today's workplace to reimburse employees for overhead expenses, such as utilities, rent or mortgage, and the cost of furniture. These claims are not likely to succeed," he said.

Robert Lewis, HR director at Peak Access Solutions in Plant City, Fla., said that prior to the pandemic, his company would give office employees necessary supplies, but anything for home use came out of the employee's pocket. Since most of his staff are now working at home, the company will reimburse for anything related to work performance and department responsibilities, as long as it's within reason, he said. This includes Internet access, printers, office supplies, ink and software, but they've also approved laptops, whiteboards and iPads in select cases.

The Tax Cuts and Jobs Act, passed in December 2017, eliminated the federal income tax deduction for most unreimbursed employee expenses for 2018 through 2025. "Because our employees are all W2, we err on the side of caution under the tax codes that allow for business tax deductions," Lewis said. "If we can expense it, we believe that legally we must allow for it since the tax code no longer supports the employee deductions."

### **Protecting the Company and Employees**

Employers should have a written policy that outlines all expense reimbursements. If employers hire employees in multiple states, they may modify their policies accordingly or simply make one generous policy for everyone. The best way to avoid issues, Samuel said, is to have a written policy that "describes a process for expense reimbursement that includes checks and balances, such as advance approval for expenses over a certain limit, a verification process for reimbursement of incurred expenses and deadlines for submissions. It is good practice to ask terminating employees to submit expense reimbursement timely, telling them that late submissions are likely to be rejected."

Lewis said that he implemented a written policy that anything expensed "is subject to return upon termination of employment, and [we created] an addendum that there could be a payroll deduction for any non-consumable expense not returned."

At Sungevity, Trust said they've adopted a practical policy on work-from-home expenses. "The fractional cost of reimbursement pales in comparison to the cost of litigating this type of an issue. Just reimburse on a reasonable and legal basis," he said. Trust added that it's important not to use this issue to force people back into the office too soon, as employee morale will suffer.

"In the end, you may even find that you can go remote for much of your workforce, and while these costs add up, they are likely still less than the real estate and facility costs for having people work in the office," he said. "Obviously, some people need to be onsite. But for those who do not, or who do not daily, this is a good alternative."

*Kylie Ora Lobell is a freelance writer in Los Angeles.*

## HR DAILY NEWSLETTER

News, trends and analysis, as well as breaking news alerts, to help HR professionals do their jobs better each business day.

Email Address

**CONTACT US ([WWW.SHRM.ORG/ABOUT-SHRM/PAGES/CONTACT-US.ASPX](http://WWW.SHRM.ORG/ABOUT-SHRM/PAGES/CONTACT-US.ASPX)) | 800.283.SHRM  
(7476)**

© 2020 SHRM. All Rights Reserved

SHRM provides content as a service to its readers and members. It does not offer legal advice, and cannot guarantee the accuracy or suitability of its content for a particular purpose.

[Disclaimer \(www.shrm.org/about-shrm/Pages/Terms-of-Use.aspx#Disclaimer\)](http://www.shrm.org/about-shrm/Pages/Terms-of-Use.aspx#Disclaimer)