Compliance Trends on the Horizon for 2024

Find out what will be the key issues for the compliance landscape in 2024 and what you can do to be ready for them.

While much of 2023 involved never-ending predictions about the timing and severity of an economic recession, the regulatory environment continued to evolve. With rules and regulations constantly changing, employers must stay on top of compliance. In addition to minimizing the likelihood of regulatory scrutiny, monitoring compliance trends is a smart strategy. It can help businesses prepare for new and challenging regulatory requirements while also building trust with clients and employees.

In 2024, how might the compliance landscape change, and what can organizations do to prepare for an increasingly onerous regulatory environment? Some of the top issues to pay attention to involve knowing more about your remote and 1099 workers, administering benefits across multiple states, providing earned wage access (EWA) and understanding the risks of artificial intelligence (AI).

1. Multistate compliance for remote workers continues to be an issue

According to global workforce research, [48 percent of workers say they've already relocated](#) or are considering relocating overseas. The research also uncovered a shift in beliefs regarding

acceptable work practices. Twenty-eight percent of employees think that within the next five years, it will be the norm within their industry to work from anywhere in the world.

An employer who allows employees to work remotely but doesn't or can't monitor their locations for compliance purposes exposes the organization to considerable risk. This issue can go undetected for a long time, but once it's revealed that an employee is working in a state other than where they're on record as being, regulatory scrutiny may soon follow. That's because in most cases, when a remote employee works in a state the employer isn't already operating in, that employee's presence creates a legal presence and certain obligations for the employer.

"At some point, somebody will apply for benefits such as unemployment insurance or paid leave, or they'll file a tax return," says Pete Isberg, ADP vice president of government relations. "If their wages and taxes weren't withheld and reported to the state in which they are working, their employer will be audited. And once there's an audit, it can grow to include every employee."

Capturing and maintaining current data on where remote employees live and work is critical to complying with local and state regulations related to payroll taxes, wage garnishments, electronic pay and the Affordable Care Act. To ensure employee location data remains up to date, consider requiring employees to report their intention to relocate via the employee portal. Alternatively, a process that notifies HR when an employee's mailing address changes can also make it easier to track where an employee lives and works.

2. Multistate benefits administration is making compliance more complex

The growing number of state laws governing employee benefits creates a complex compliance environment for organizations that operate in multiple states. Some state and local laws conflict, making compliance even harder to achieve. As state oversight of employee benefits evolves, there will be a growing need to focus on each jurisdiction's requirements.

"Employers should take a strategic approach when it comes to benefits administration," says Helena Almeida, ADP vice president of managing counsel. "Requirements differ from state to state, so it's important to stay up to date with the unique regulations and compliance requirements of each state and to develop a comprehensive benefits strategy that takes into account the needs of all employees."

The shifting regulatory environment requires a proactive approach, which is a critical component of an effective compliance management strategy. Along those lines, complying with benefit-related laws requires an in-depth understanding of state-specific laws, such as those related to retirement and paid leave policies. This includes closely monitoring pending legislation.

3. Earned wage access providers are becoming subject to certain state regulations

EWA, which gives employees access to their wages before their next paycheck, is becoming a popular benefit for employers and employees. It helps employees minimize the stress that comes with short-term cash shortfalls. To underscore the need, a recent survey by The Commonwealth

[Fund](#) reported that 49 percent of adults aged 19 to 65 would be unable to pay an unexpected $1,000 medical bill within 30 days.

Given the potential financial hardships facing many workers, EWA may become a critical retention tool for businesses. "I think it's going to become a very, very widespread offering that employers should be aware of and think about offering," Isberg says.

Nonetheless, under proposed California rules, EWA is treated as a form of lending. Additionally, some states have enacted laws to regulate EWA providers and establish consumer protection requirements. As EWA becomes a more sought-after and available benefit, other states may soon pass their own laws.

While employers are not directly responsible for complying with EWA regulations (EWA service providers are), remaining aware of evolving EWA legislation may be helpful. Employers should also engage an [EWA provider](#) with employee-friendly fee policies. Such services can be minimal or even free of charge, which would minimize the likelihood of violating state laws or raising other concerns.

4. Legislation affecting 1099 workers is being considered

In pursuit of an optimal work/life balance, more people have become contract and gig workers. This is especially the case for remote and part-time workers. More state and federal laws and regulations have been developed particularly regarding how employers engage and classify 1099 workers. For example, a recently proposed rule from the U.S. Department of Labor uses an "economic realities" test to conduct a holistic view of a worker's role and employee status.

Misclassifying workers creates several significant risks, including regulatory action and class-action lawsuits. It can also damage an organization's reputation with stakeholders, including employees, clients, suppliers and investors.

Compliance when engaging 1099 workers requires monitoring the state and federal regulatory landscape. This is particularly important when it comes to the tests applied to evaluate an individual's employment status as they contain similar elements yet vary by jurisdiction.

"As the legislation surrounding 1099 classification evolves, it is crucial for businesses to be vigilant in their compliance efforts," says Samantha Munro, ADP senior counsel. "Noncompliance can lead to significant financial and reputational risks, including back taxes, penalties and legal action."

Partnering with solution providers that monitor existing and proposed legislation can help employers mitigate risk and improve how they manage their independent contractors.

5. Regulations on the use of AI are expected to continue

Almost overnight, AI has become firmly embedded within businesses of all sizes. As is the case with most innovative technologies, the regulatory environment will need time to react and police its use.

At the federal level, an executive order was issued to address AI-related risks and provide a voluntary risk management framework for businesses to review and adopt. Legislation at the state level is under development and being passed into law. For example, New York requires employers that rely on automated employment decision tools to notify users and allow them to opt out. New York City employers must obtain and publish a bias audit performed by an independent third party.

Other states plan to regulate AI, particularly related to bias and privacy. Keeping track of pending legislation can help employers anticipate the impact on their operations.

Data-driven compliance programs can keep you informed

Many of the laws governing the employee/employer relationship depend on the employee's physical location. Given the growing number of employees who work remotely, maintaining robust employee records will be critical to complying with local, state and federal laws and regulations. The regulatory environment is impossible to predict, but there's no doubt that monitoring compliance trends and ensuring access to data will always be a critical component of every high-performing compliance program.

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