



WTS Tax Update for Work from Anywhere

Spanish Draft Law for tele work - Global Expatriate Services Update

September 2020

As a consequence of the impact produced by COVID-19, the need to regulate distance work in Spain became evident, establishing the rights and guarantees of employees who exercise it. In that regard, the government has recently issued a royal decree law regulating distance work which enters into force on October 13th, 2020.

As for the general provisions established in the royal decree law, in addition to the definition and differentiation of the concepts of "home office", "remote work" and "on-site work" the recognition of equal rights with respect to whether the work would have been performed at the workplace is noteworthy.

These rights are expressly detailed in the royal decree law, including the right to academic training, professional promotion, adequate provision of material, compensation for expenses, flexible working hours, privacy and data protection, digital disconnection - as regulated in Article 88 of Organic Law 3/2018, of December 5, on the protection of personal data and guarantee of digital rights - and, finally, collective rights.

With regard to occupational risk prevention, the royal decree law includes the possibility that it may even be necessary for the person in charge of occupational risk prevention in the company to visit the place where the employee habitually performs their duties in order to evaluate the risks and plan preventive measures.

As a great novelty, the royal decree law introduces the need for the existence of a working-from-home agreement that certifies the willingness of both parties to provide the employee's services under this modality, in writing. Among the contents of the distance working agreement, the following stand out: the inventory of the means, equipment and tools, including consumables and personal property; the mechanism for compensation of direct and indirect expenses; working hours and rules of availability; allocation between on-site and distance work; the work center of the company to which the employee is assigned; the usual place of work; if applicable, the means of corporate control of the activity; and, if applicable, the term or duration of the agreement.

Last but not least, the royal decree law establishes that the distance working agreement must be signed, in case of employees that were already working from home, within three months from the entry into force of the regulation. Special attention should be drawn to employment relationships regulated by collective agreements, in which cases, special rules apply for the application of the new provisions.

In short, the publication of the royal decree law should cause companies to consider whether they are prepared to face this new reality:

- to detect potential opportunities/treats in the framework,
- to review their existing policies for non-on-site work and,
- to adapt the new rules to the current employment agreements bearing in mind that different deadlines apply depending on collective agreements. Thus, the application timeline should be reviewed on a case-by-case basis.

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