GUIDE TO STARTING AN OFFICE IN A NEW STATE

Namely HR for Humans

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INTRODUCTION

Are you thinking about opening a new office location in another city or state?

While expanding your business into a new state is an exciting turning point for any company, it can also bring many challenges. From keeping company culture consistent across state lines and establishing a communication plan between offices to remaining compliant across state lines, being a multi-state employer requires a slew of new HR responsibilities.

So before you go imagining spending your winters at your company's new Miami office, here are a few things to consider when opening a new office.

From picking the right location to training new employees to meeting compliance requirements, this guide will help you make sure your new office location is a success.

WHAT ARE THE BENEFITS OF OPENING A NEW OFFICE?

Expanding your business to a new city, state, or even country can be a great opportunity for your business and your employees. It can let you better serve your existing customers, earn new business, allow you to tap into a new talent market.

WHAT ARE THE BENEFITS OF OPENING A NEW OFFICE?

Better Serve Your Existing Customers

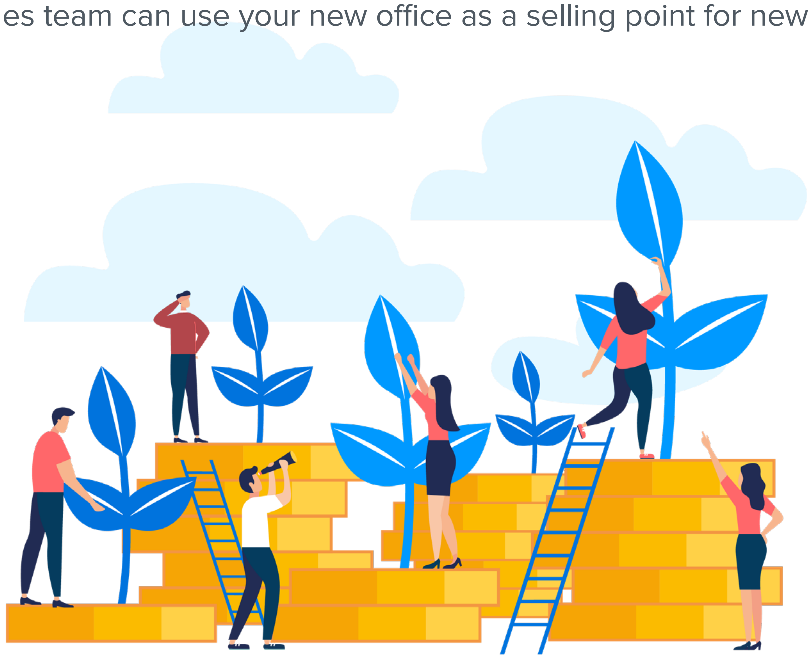
Opening a new location in a city or area where you already have a large customer base can allow you to better serve those customers and give them peace of mind that your employees are close by.

Tap into a New Talent Pool

A new office not only helps out your clients and prospects, but it also helps your business. You'll be able to recruit top talent from the surrounding area. Some areas attract workers with a specific skill set or industry experience, like Silicon Valley. Opening an office in a specific area could allow you to tap into this talent pool and fill hard-to-fill roles.

Proximity to New Markets And Business Opportunities

Opening a new office in a new market could also be a strategic move for your business. You'll have “boots on the ground” to make connections in the area and meet with prospective clients in person. Plus, your sales team can use your new office as a selling point for new clients.



WHAT DO YOU NEED TO CONSIDER?

If opening a new office is so great, why don't more companies do it? Satellite offices come with their fair share of challenges: varying cultures, geographies, and laws dictate how well a company will run in a state.

For that reason, there are a number of things that you need to consider when opening an office in a new state.

Legal Status & Registration

When opening a business in a new state, getting started on the right foot will set you up for success. This begins with understanding your company's legal status and what that means for your move. For example, sole proprietorships and partnerships simply move and register to do business by filing a DBA (Doing Business As) in the new location.

The process is not quite as simple if your company is a C corporation, S corporation or a limited liability company (LLC). For these companies, you may need to file a foreign qualification. Ensure you consult with a lawyer and your state government or agency to know what is required of you during a move or when opening an office in a new state.

Once you've determined the status of your business, remember that you may also have to set up an account with the following agencies:

- DEPARTMENT OF REVENUE (for payroll withholding and sales tax remittance)
- SECRETARY OF STATE (for annual reports and additional corporation/LLC filings)
- DEPARTMENT OF LABOR (for employment taxes)

When applying for state registration, you can fill out the lengthy application yourself, or you can outsource the workload. For instance, Namely offers state and jurisdiction registration as a service to lighten the load of making a move.

WHAT DO YOU NEED TO CONSIDER?

Multi-State Compliance

When it comes to opening an office in a new state, one of HR's biggest pain points is multi-state compliance. Laws related to harassment training, worker classification, taxes, benefits, equal pay, and more vary wildly by state—and many of these state-level laws are stricter than or add on to federal regulations. Therefore, it's tricky to stay compliant with all these ever-changing local regulations when you expand your workforce into another state.

Below, we've listed just a few of the compliance aspects that you have to keep in mind when expanding your workforce across state lines:

Sexual Harassment Training

A number of states have taken a strong stance on preventing harassment in the workplace. For instance, California, Connecticut, Delaware, Illinois, Main, and New York have all signed mandatory sexual harassment training laws into effect. But even between these laws, there are major differences. Delaware's law only applies to employers with 50 or more employees in Delaware, while New York's law applies to all employers.

WHAT DO YOU NEED TO CONSIDER?

Worker Classification

Worker classifications are not always standard across state lines. How you classify an employee in one state may not be legally sound in another. There are a number of tests that different states use to determine classification, including:

Common Law Test

- The Common Law test determines classification by looking at behavioral control, financial control, and relationship of the parties for each job.
- Some states that use this test include Alabama, Colorado, and South Carolina.
- It is also used by the IRS.

ABC Test

- The ABC Test determines classification by looking at whether there is an absence of control, whether the business of the worker is unusual to and/or away from the hiring organization's facilities, and whether the worker is customarily engaged as an independent contractor in this trade or occupation.
- Some states that use this test include Indiana, Massachusetts, and Vermont.
- It is also used by the U.S. Department of Labor.

Right to Control Test

- The Right to Control test determines classification by determining who has the right to control the means and manner by which work is performed. To explain in the broadest sense, this means that if the company has more control over the way work is done, then the worker is generally an employee. But if the worker has more control, then the worker is more likely an independent contractor.
- Some states that use this test include Arizona, California, and Florida.

WHAT DO YOU NEED TO CONSIDER?

But new state laws that complicate the use of these tests are popping up around the country. For instance, one new California law forces companies to reclassify hundreds of thousands of independent contractors as employees, meaning they receive broad labor law protections. A similar bill is in the works in Virginia. And New York City recently passed a new law expanding the New York City Human Rights Law (NYCHRL) to offer contractors and freelancers the same employment protections as traditional employees.

Salary History Bans

The "Ban the Box" movement has seen a growing popularity in a number of states in recent years. This movement seeks to abolish the "Have you ever been convicted of a crime?" check-box that some employers include on job applications. Currently, 35 states have banned employers from including the box in an attempt to get companies to adopt more fair hiring practices and focus on candidates' qualifications early in the application process. The most recent states to join the ban include Maine, New Mexico, and North Dakota, which all passed laws banning the box in 2019.

Paid Leave

Paid leave policies have also evolved drastically over the years, and various states have adopted their own regulations. From paid sick leave to parental leave, these laws have revamped employee benefits. For instance, 12 states and D.C. require that employers provide paid sick leave. And 8 states plus D.C. mandate paid parental leave.

COMPENSATION DIFFERENCES BY STATE

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COMPENSATION DIFFERENCES BY STATE

When it comes to paying your employees across state lines, HR and payroll are suddenly tasked with a whole new set of challenges. Knowing each state's minimum wage, equal pay laws, and tax codes are all important for a multi-state employer. Plus, you'll have to figure out how much to pay your employees in these new areas to remain a competitive employer. Here's a closer look at the compensation challenges you'll want to keep in mind when opening up a satellite office in a different state:

Varying Salaries

Opening a new office won't be much help if you can't hire employees to fill it. In order to be a competitive employer in a new area, you will need to do some research and determine the average salary for your open roles as compensation for the same position can vary state by state and city by city. For example, the average salary of a software engineer in California is $117,040 while the same role in Oklahoma only warrants a salary of $77,830. You can view a breakdown of average salaries by state and by role with this salary estimator tool. You'll need to make sure your compensation package meets candidates' expectations in the area, or you'll have a hard time recruiting quality candidates.

Minimum Wage

Currently, 30 states and a number of major cities have minimum wages above the federal minimum wage of $7.25. This year, California's minimum wage was increased to $13.00, making it the highest increase out of all the states in 2020. Seattle is on pace to have the highest minimum wage of any city, set to arrive at a $15.45 per hour by 2021. Be mindful of minimum wage laws in your city/state to ensure you're meeting local standards.

Taxes & Withholding

Employers are required to withhold and pay income tax on any wages, salaries, bonuses, commissions, and other similar income earned by employees. While an employee's Form W-4, Employee Withholding Certificate, tells an employer how much to withhold from every paycheck, state withholding can get complicated quickly—especially if an employee works and lives in another state.

Taxes & Withholding

State Reciprocity — State reciprocity is an agreement between two states that allows individuals who work in one state and reside in another to only have taxes withheld for one state (usually the residential state). For example, if an employee lives in Ohio and works in Indiana, they can ask their company not to withhold Indiana state taxes. That said, the reverse is also true. The employee then files just one Form W-2 at tax time in their resident state. While employees are ultimately responsible for their own withholding requests, employers should be knowledgeable of these agreements and consult a tax advisor for any difficult questions.

Nexus — Another challenge to work around is when your business has a "nexus," or business presence or any operations, in a state. Having a physical presence in a state, like a new office, can establish nexus and hold you subject to the withholding laws of that state. But, some states have stricter criteria when it comes to determining nexus, for example, a 2012 Virginia ruling found an out-of-state employer with a salesperson who worked from a home office in Virginia had nexus in the state and was required to withhold VA income tax.

Read more about this topic in our new eBook "Your Guide to 2020 State Withholding Forms"

Additionally, depending on your company size and what states your business operates in, you'll need to look into applicable state taxes. For example, you'll need to see if your state requires you to deduct funds from employee paychecks for state initiatives like:

- Paid Family Leave
- State Disability Insurance
- State Unemployment Tax
- Workers Compensation Insurance

You'll also need to be familiar with deduction rates and what percentage of an employee's earnings you will need to withhold to meet state requirements.

KEEPING COMPANY CULTURE CONSISTENT ACROSS STATE LINES

After you open an office in a new state, it’s challenging to maintain a consistent company culture across state lines. So how can you keep your employees engaged and connected when they are spread thousands of miles apart?

Proper Onboarding

Onboarding is not only crucial to retaining employees, but also to keeping a consistent company culture. In fact, 60 percent of employers claim that assimilating new hires into company culture is the top objective of onboarding. By using streamlined HR technology, you can onboard your new employees and introduce them to your company culture from day one, regardless of where they are located. Through configurable templates and paperless processes, Namely's HR platform helps new hires become acquainted with your company's values and culture without having to visit your HQ.

Social Tools and Resources

When your employees work in different locations, it's critical to keep them connected with intuitive social tools. By utilizing Namely's company news feed, you can enhance communication across your organization by allowing employees to recognize one another, view coworkers' upcoming birthdays and anniversaries, and see when new hires enter the company. Namely's org chart maps out every department so that employees can see who is on what team—no matter where they are.

With Namely, you can also store your company's essential resources all in one place. From your employee handbook and code of conduct to company policies, your employees can access all of these assets whenever, wherever.

Consistent Office Spaces

Offering perks to your employees in the office is a key component of company culture. And when you have more than one office, it's imperative to offer the same workplace perks in each location. From kitchen snacks to on-site gym facilities, every one of your employees should have access to the same benefits.

To take it a step further, you can emphasize your company culture by keeping your office decor consistent and on-brand. Whether it's having a particular color scheme or conference room layout, all of your offices can look similar regardless of where they're located. Shutterfly's offices are designed to inspire their employees by displaying motivational quotes and words of wisdom on their walls. By carrying your company culture and values into your office spaces, you can keep your employees even more connected across state lines.

CONCLUSION

Opening an office in a new state is an incredibly exciting step for any business. But along with the excitement comes a number of challenges that HR, payroll, and legal must face.

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Opening an office in a new state is an incredibly exciting step for any business. But along with the excitement comes a number of challenges that HR, payroll, and legal must face.

From keeping company culture connected to ensuring that your employees are correctly classified, HR technology can help you simplify the process.

With Namely, you can stay compliant across state lines, and keep your employees engaged and connected—no matter where they're located.

And with Namely's new people risk management solution, Comply Advice & Action, staying compliant has never been easier. Comply Advice & Action is designed to give mid-sized companies the same level of coverage and up-to-the-minute insights that enterprise businesses benefit from—at a fraction of the cost.

With Comply Advice & Action, you'll have access to:

Live Expert HR Advisors

SPHR and PHR certified advisors providing trustworthy guidance to prevent and resolve challenging people situations and compliance issues.

A Living Employee Handbook

Connects advanced technology, authoritative content, and seasoned HR experts; three critical components to ensure policies and procedures remain compliant as an organization grows and as regulations change.

A Learning Management System With Delivered Compliance Trainings

Offers a broad array of training solutions for proactive and reactive risk management, for both employees and management, including tracking for completion and effectiveness.

CONCLUSION

OSHA Logs

Record workplace injuries and illnesses and quickly export the incidents onto Form 300 and 300A to submit to OSHA.

Robust Compliance Content

Staying current with legislation and policy changes that impact your company's HR practices is a full-time job. Comply Advice & Action keeps you in check with these changing regulations so that you can spend your time focusing on other HR processes. Want to learn more about how Namely can help you as you launch your new office? Click here to request a personalized demo.

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ABOUT NAMELY

Namely is the #1 HR Software company that empowers mid-sized businesses to build better workplaces. Its cloud-based software brings HCM, benefits, insights, payroll, and time into a single-view platform to help modern HR teams make data-driven decisions about their people and understand what's really going on in their workforce.

The Namely ecosystem includes powerful integrations with market-leading applicant tracking, identity management, ERP, compliance, E-Verify solutions, and more. Serving more than 1,400 clients with 280,000 employees globally, the company is backed by leading investors, including Altimeter Capital, GGV Capital, Matrix Partners, Scale Venture Partners, Sequoia Capital, Tenaya Capital, and True Ventures. For more information, visit www.Namely.com.

Visit **www.Namely.com** or request a demo to see how Namely's HR software can help your organization.