



# The Human-Talent Cloud and The Gig Economy

## Navigating the new HCM landscape

Today's workforce features increasingly flexible work situations. The landscape continues to change due to the increase in hiring of contingent workers, freelancers, contractors, and several other types of "gig" workers.

As millennials grow into management roles and Gen Z starts moving into the workforce, an entire new thought process regarding work will begin to emerge. The option to be a gig worker within the human cloud ecosystem will become more appealing, as it will allow these groups to greater balance their work/life priorities.

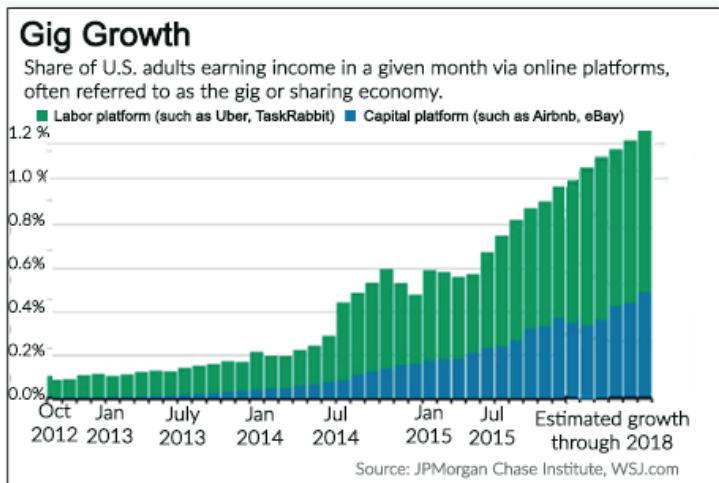
As a result of this transition, both employers and workers are attempting to establish a new corporate culture and redefine the social and legal obligations between both parties. For the employer, questions regarding compliance, labor employment laws and regulations all come into question versus the inherent efficiency gains anticipated.

What's needed is a way to onboard work and workers so as to enable organizations to be more efficient and secure when engaging the Human-Talent Cloud.

## The "Gig" Trend

According to Pew Research, one in four Americans now earn money from the digital "platform economy." Within this digital platform, lives the "Gig Economy," which simply put is people being hired for short-term contracts or working freelance. Last year, the Bureau of Labor Statistics reported that 55 million people in the U.S. are "gig workers," which is more than 35% of the U.S. workforce. The gig work number is projected to increase to 43% by 2020.

### RISE OF THE GIG-ECONOMY



## Global Gig Economy

Revenue by Component

- Independent Contractors \$2,039B
- Direct Temporary Workers \$611B
- SOW \$458B
- Agency Temps \$413B

Some of the obvious reasons why the gig economy continues to grow are that gig workers feel less stressed because of the flexibility with their schedules and organizations employing remote workers benefit from access to a much larger talent pool, combined with the monetary benefits including cost-savings on real estate and a reduced environmental footprint. European remote workers comprise almost 14 percent of the workforce, and approximately 65 percent would be interested in remote work versus on site employment.

## The Human-Talent Cloud

The Human-Talent Cloud is defined as a group of companies which are two-sided online labor market places. Thousands to millions of hirers and thousands to millions of workers are aggregated on websites or mobile apps, which consists of the tools to match/connect these two sides. This includes everything from sourcing to management to payment.

Common tools powering the human cloud:

- Online staffing platforms
- Cloud labor platforms
- Crowdsourcing platforms
- Online work arrangement intermediation platforms
- Talent exchanges
- Online work services
- Mobile job board apps



## Why Use The Human-Talent Cloud?

Today's new world of work is witnessing demand that is dramatically outstripping supply. Unemployment is at a comfortable 4.7 percent rate. Specific professional sectors, including finance, tech, legal and accounting are much lower and for certain IT roles the unemployment rates are less than one percent. Speed-to-hire is critical to fill today's workforce gaps. The trend is continuing to shift labor from local to global, which creates flexible, distributed/virtual teams. The benefits are plentiful, including finding unique skills quickly and expanding an organization's demographics. The Human-Talent Cloud eliminates time and money wasted on traditional employment processes by allowing organizations to acquire skills on-demand.

Uber, TaskRabbit and other gig-based organizations are the result of the trend towards a fast-paced, task-oriented, businesses that are platform-based, which are paving the way for this flexible work revolution.

## Employers' Risk

So where does the risk within the Human-Talent Cloud and Gig Economy exist? Within this flexible and free platform, there are a unique set of challenges and risks for any size or type of organization. To some degree, managers and supervisors have limits to the control they have over gig workers, including performance and engagement with other members of the organization, not to mention understanding legal obligations.

For employers not understanding what the law requires and what their responsibilities are can be a real issue. There is an increased risk of introducing non-compliant practices into the organization. With regards to labor employment law and where an organization's liability begins and ends when working with independent Gig workers is a very gray area. Laws related to occupational safety, health administration requirements and equal opportunity hiring all come into question.



Many gig-type organizations have been sued because they failed to treat gig workers like employees. One example is Homejoy, a house cleaning service backed by \$40 million in venture capital money closed down its business partially because of lawsuits over whether its workers were contractors or employees. More extreme case examples are when Microsoft paid \$97 million to settle a lawsuit brought by misclassified temporary workers and FedEx paid \$228 million to resolve a case with delivery drivers who FedEx claimed were independent contractors.

One of the largest areas of concern for employers are if a federal or state agency deem the workers of an organization to be employees rather than independent contractors. In this case, there is now potential exposure

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*Numerous lawsuits seek to reclassify people working individual gigs as employees instead of independent contractors.*

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at the respective state and federal levels, which presents many legal and financial risks for the employer. If an employee is misclassified by an employer as an independent contractor, penalties may be assessed by the IRS under Internal Revenue Code Section 3509. Penalties vary depending on whether misclassifications are willful or not, and if not willful, whether proper returns were filed. If the employer willfully misclassified the worker, the penalties will be equal to the full amount of taxes that should have been withheld (income, Social Security, Medicare and the employee match). Additionally, under Internal Revenue Code Section 6672, this penalty can be assessed simultaneously on the company itself and on its officers, personally, if they are deemed to be responsible.

## Potential Exposures

- **Wage and Hour Violations** – It is possible that some of the workers should be classified as hourly non-exempt, which means they are entitled to overtime
- **Affordable Care Act (ACA) Penalties** – if deemed to be a large employer (ALE) with 50 full-time equivalent employees
- **Benefit Exposure** – This includes, PTO, Sick Pay, 401(k) matching contributions, stock options, other
- **Workers Compensation** – Possible exposure for not carrying the legal amount of workers compensation insurance

## Other Potential Exposures/Penalties

- Federal and State penalties could include late filing fees
- Agencies can expand audits back 3 to 4 years
- If the auditor deems the classification was “willful,” this opens up a number of penalties both federal and state. There could be personal liability for the responsible individual(s)



## What Can SmartERP's Compliant Onboarding for the Human-Talent Cloud do to help organizations?

Organizations want and need to make sure that when they issue work to the cloud platforms that the work being requested is going to be correctly performed and compliant with work rules - as per the government and the company's own rules. Human-Talent Cloud providers aggregate curated talent but they don't qualify their talent or their work per a company's standards and unique requirements.

### It's up to the companies to make sure that:

- The work they're hiring managers are offering is truly classified as suitable for independent contractors - per national standards (IRS) and state/municipality standards
- If the work requested doesn't qualify then how can it be modified or offered to vendors under a different compliant classification under some managed system
- The Human-Talent Cloud workforce being offered has all that's needed to work at the company, or business unit, or location, etc., that's hiring them. For example, the worker needs to provide evidence that they have enough insurance or certifications to do the work
- The workers being hired to do the work are efficiently onboarded so as to save time, expense and to provide the worker with a streamlined process that will endear the worker to their new company and co-workers
- There is data on how the company issues work to the Human-Talent Cloud so that when someone, a service supplier and/ or the government questions and audits the activity that the company has the data to prove it's followed the law and rules



## STOP TAKING ON NON-COMPLIANT ONBOARDING RISK

Contact SmartERP for a SaaS demo of efficient and compliant onboarding for the Human-Talent Cloud

Email [sales@smarterp.com](mailto:sales@smarterp.com) or call us at 925.271.0200

**ABOUT SMARTERP:** SmartERP provides unique Oracle Cloud-based solutions and services that help drive speed and agility and manage compliance for your organization. Our cloud solutions and services provide faster provisioning, on-demand access, scalability and help ensure compliance with Human-Talent Cloud onboarding requirements.



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