The changing global mobility landscape

Changing international laws and a transforming political landscape are challenging U.S. companies to be increasingly strategic in deploying a globally mobile workforce.

From managing risk and compliance to understanding the potential increases in assignment tax costs, U.S. businesses need to be proactive in addressing international trends and their impact on global mobility.

Looking back at FATCA
Before looking forward, it’s prudent to look back at recent changes that have affected businesses with internationally mobile employees.

In 2010, Congress passed the Foreign Account Tax Compliance Act (FATCA), partly in an effort to tackle tax avoidance and the issue of money hidden offshore. FATCA has required U.S. residents to file yearly reports of their overseas accounts and financial assets, creating greater transparency. With more than 100 countries complying with the extensive reach of the FATCA regulations, sharing of information on individuals’ bank accounts and other financial assets has been part of multilateral efforts to crack down on tax avoidance.
The stricter banking rules can make it tricky for employees to set up a bank account in a foreign country and in relation to gaining signature authority on an overseas company bank account.
U.S. businesses need to plan ahead of time and, think strategically about assignments and business travel to mitigate risk and cost exposure.

Companies should examine their employees on international assignments to identify:

• Which assignments could result in immediate social security tax increases

• Which assignment destination countries will result in higher social tax costs in the future?

• What is the cost to the business of meeting increased employee social tax burdens on their behalf?

• Can assignments be restructured to benefit from the U.S. network of bilateral social totalization agreements?

• How should assignments to the UK and EU be structured and business travel managed to avoid major cost issues?

**U.S. tax reform and employee mobility**

On December 22, 2017 President Trump signed tax reform into law, the most significant overhaul of the tax code since 1986. The enacted changes will affect how businesses view and manage international mobility and impact the costs of deploying an international workforce. U.S. companies should be concerned with how their remuneration costs will change for U.S. employees working overseas and for those moving to the U.S. U.S. businesses pursuing an international growth strategy must consider how and where talent is deployed to ensure the return on investment is balanced.

Many U.S. companies assign employees to roles in foreign countries where the company is responsible for paying the overseas tax liabilities. The individual remains responsible for paying a hypothetical amount of U.S. tax broadly equivalent to the amount he or she would have paid at home. This arrangement is commonly known as “tax equalization.”

Tax reform has reduced the seven income tax brackets for individuals, from the highest of 39.6% to 37% alongside an increase in the income within each income tax bracket. For businesses, the fall in tax rates and overall tax burden on an employee would see hypothetical tax reduce for some assignees. This means that while an employee’s assignment tax burden remains in line with what it would have if the employee had stayed at home, the business may suffer a spike in tax costs due to higher amounts of taxable income subject to high overseas tax rates. Employees working on assignment in countries like Australia, Germany and the UK, which have comparably higher individual tax rates will therefore have more income subject to tax overseas. An increase in the spread between U.S. and foreign tax rates will ultimately mean higher tax costs that companies have to bear.

For assignees with ties to higher tax US states such as California, New York and New Jersey, the limitation of state and local income and property tax deductions to $10,000, will also have a mixed impact. Outbound assignees from states may see their hypothetical tax burden rise at a cost benefit to the company, while those inbound to the US could well see tax costs rise.

One of the most costly changes is for employer-paid moving costs. The repeal of the current code will see employer-paid or reimbursed qualifying relocation costs included in employee’s taxable income. With tax due likely to be settled on a ‘grossed up’ basis by the employer, this will increase the costs of relocating employees significantly.

For U.S. businesses grappling with the impact of tax reform across their operations, when looking at employee mobility, they should be addressing the following:

• The potential impact on tax cost across an assignee population

• Which destinations and offices offer more balanced tax cost and still achieve strategic objectives

• Whether the right level of return on investment is still achieved where costs are increasing
International business travel and the BEPS
The Organization for Economic Co-operation and Development’s Base Erosion and Profit Shifting (BEPS) Action Plan has been on the radar of multinational companies for a number of years, but the new level of potential tax consequences are still only coming into view for internationally mobile employees.

The BEPS initiative is intended to bring corporate profits more closely in line with the substance of where and how value is created by a business. For internationally mobile employees, what they are doing overseas matters more than ever and for U.S. companies, understanding how different countries approach BEPS is critical. For senior executives undertaking work on behalf of U.S. companies, growing the business and working towards securing lucrative international contracts, new guidelines mean that employees may inadvertently create a taxable “permanent establishment” in an overseas country. Corporate tax liabilities could therefore arise in countries where employees carry out work, rather than just where they are actually employed or on the payroll.

The exposure runs from tax registration, calculation of deemed taxable corporate income and tax, to new reporting requirements. Large and mid-sized U.S. businesses need to carefully oversee who is being deployed where and how. Whether a business is entering fast-growth markets, using a mobile salesforce or has executives working across multiple territories, proactive monitoring is crucial to manage tax risk and exposure. Steps may include reviewing travel booking systems, requiring employees to sign in when visiting international offices and implementing more sophisticated tracking technology.

In planning for the impact of BEPS, U.S. companies should ask themselves the following:
• Do they track the movement of an internationally mobile workforce?
• Do they know what specific work their employees are doing overseas?
• Do they have employees working in countries where they don’t have an entity established?

Conclusion:
Effective mobility planning for the future
Several forces continue to shape employee mobility. Globalization will keep moving forward, and internationally mobile workers will continue to drive growth. At the same time, countries are enacting new laws and regulations to deal with tax, and shifting political agendas may create uncertainty and change that affects all areas of business and mobility.

Forward-thinking companies need to not only keep abreast of the changing international rules but have a proactive strategy to ensure they are deploying their people effectively and cost efficiently.

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