Benefits Passport Webinar
Navigating Issues in Global Remote Work
May 5, 11 a.m. ET
Today’s Speakers

Moderators:

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Guest Speakers:
Key Considerations For Cross-Border Remote Work

**Permanent Establishment Risk**
- Do you already have a legal presence in the jurisdiction?
- What job function is the employee performing?
- How long will the employee be in the jurisdiction?

**Appropriate Work Authorization**
- On what basis is the employee eligible to work in the country?

**Process For Remitting Taxes & Social Insurance**
- Are there obligations to remit taxes and social insurance in the new jurisdiction?
- Must you be registered locally to be able to remit?
- Are there tax and social insurance treaties between the original country of hire and the country?

**Employment Will Be Governed By Local Law**
- How will the laws of the jurisdiction the employee relocates to apply?
- Changes to working time, leave, dismissal rights?

**Data Protection Compliance**
- Is the employee relocating outside of the EU?
- Do you have GDPR-compliant policies?
Alternatives To Cross-Border Remote Working

What to do if requested by employee?

- Is it possible to employ from a foreign entity?
- Does the country allow a third party to act as an employer of record?
- Can the employment relationship be repurposed as a consulting/independent contractor arrangement?

Alternatives may bring increased cost, and increased risk
Cross-Border Remote Work – Certain Pension Considerations

• Coverage and Participation
  – If an employee is approved for work from a cross-border remote location, would the employee be captured as an eligible employee in the pension plan maintained in the remote jurisdiction?
    ▪ Does the answer depend on the number of hours or other time-based factor worked remotely?
    ▪ Can the plan be amended to exclude remote workers?
    ▪ Are there reporting or compliance (e.g., tests akin to discrimination tests for U.S. qualified plan rules) issues?
    ▪ Are there duplication of benefits issues?
    ▪ Are there issues requiring an allocation of compensation across jurisdictions?
Cross-Border Remote Work – Tax Considerations in Respect of Pension Benefits

• US Taxpayers Working in Non-US Jurisdictions
  – Taxed on worldwide income
  – May be subject to current tax on amounts credited in/contributed to foreign pension plan
  – FATCA reporting
  – Bi-Lateral tax treaty considerations
• Non-US Taxpayers Working in the US
  – Allocation rule for deferred compensation for US and non-US plans
US State Tax and Federal Law

• US federal law provides that “No State may impose an income tax on any retirement income of an individual who is not a resident or domiciliary of such State (as determined under the laws of such State).”

• Would this prohibition have an impact on State taxation of pensions earned in whole or in part in consideration for remote work?
## Broader Challenges and Considerations

<table>
<thead>
<tr>
<th>Broader Challenges</th>
<th>Employee View</th>
<th>Employer View</th>
<th>Considerations</th>
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</table>
| Pay / LTI / Total Rewards | • Gross / net impact  
• Market competitiveness | • Cost of Living / Fairness  
• Internal Equity | • Who is initiating?  
• Should it matter? |
| Tax & Social Insurance | • Net impact  
• Preservation  
• Timing / classification | • Totalization / treaties  
• Total Cost of Employment | • Support – how and how much? |
| Retirement & Benefits Strategy | • Fairness  
• Choice & Portability  
• Coverage | • Philosophy  
• Choice / Flexibility  
• Transparency | • Simplicity vs perfection  
• Labor law navigation  
• Captives |
| Productivity | • Line of sight  
• Job focus  
• Ability to contribute | • Agility  
• Performance management  
• Culture / structure impact | • Sustainability  
• Broader org goals |
| Wellbeing | • Support / community  
• Financial / physical / mental  
• Work / life balance | • Support network  
• Risk exposure | • Sustainability |
| Operations & Governance | • Communications  
• Support | • Governance & monitoring  
• Operating model & vendors  
• Remote / mobile HR | • Where / how to begin  
• Data privacy |