



AMERICAN BENEFITS
COUNCIL

Benefits Passport Webinar
**Navigating Issues
in Global Remote Work**

May 5, 11 a.m. ET

Today's Speakers

Moderators:



Lynn Dudley
*Senior Vice President,
Global Retirement and
Compensation
Policy*
American Benefits
Council



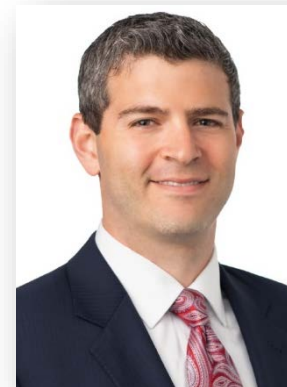
Richard Polak
*Senior Advisor,
Global Affairs*
American Benefits
Council



Jim Humphrey
*Practice Leader,
Retirement,
Asia Pacific*
Aon



Arthur Kohn
*General Counsel –
ERISA,
Compensation
and Benefits*
Citigroup



Jesse Pauker
Partner
Seyfarth Shaw LLP

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

	Employee View	Employer View	Considerations
Pay / LTI / Total Rewards	<ul style="list-style-type: none"> Gross / net impact Market competitiveness 	<ul style="list-style-type: none"> Cost of Living / Fairness Internal Equity 	<ul style="list-style-type: none"> Who is initiating? Should it matter?
Tax & Social Insurance	<ul style="list-style-type: none"> Net impact Preservation Timing / classification 	<ul style="list-style-type: none"> Totalization / treaties Total Cost of Employment 	<ul style="list-style-type: none"> Support – how and how much?
Retirement & Benefits Strategy	<ul style="list-style-type: none"> Fairness Choice & Portability Coverage 	<ul style="list-style-type: none"> Philosophy Choice / Flexibility Transparency 	<ul style="list-style-type: none"> Simplicity vs perfection Labor law navigation Captives
Productivity	<ul style="list-style-type: none"> Line of sight Job focus Ability to contribute 	<ul style="list-style-type: none"> Agility Performance management Culture / structure impact 	<ul style="list-style-type: none"> Sustainability Broader org goals
Wellbeing	<ul style="list-style-type: none"> Support / community Financial / physical/ mental Work / life balance 	<ul style="list-style-type: none"> Support network Risk exposure 	<ul style="list-style-type: none"> Sustainability
Operations & Governance	<ul style="list-style-type: none"> Communications Support 	<ul style="list-style-type: none"> Governance & monitoring Operating model & vendors Remote / mobile HR 	<ul style="list-style-type: none"> Where/ how to begin Data privacy