Key Considerations in the New World of Work

More flexibility with remote work raises opportunities and challenges

Employers around the world are all familiar with how COVID-19 has changed—and continues to change—the face of work. With so many employees working in a full-time capacity from home, the jury is still out on the extent to which this trend will continue once the crisis has been brought under control.

What we do know is that increasing numbers of employees who are in the position to take advantage of greater flexibility about where to work are weighing their options.

There are different terms to describe that flexibility – "work from anywhere" (WFA), or "work from home" (WFH) are the two most common. Another, related trend is also on the rise: "delocation," or the movement out of high-cost, urban centers into less crowded or less expensive suburbs. Whatever we call it, however, it continues to present multiple challenges that HR and global mobility professionals must grapple with.

Cross-border remote work was taking hold long before the pandemic. Estonia launched an e-residency program to entice location-independent workers as far back as 2014. Since then, several other countries have introduced their own versions of visa programs that essentially permit stays of varying lengths, as long as individuals are employed by foreign entities and meet certain criteria, such as minimum income levels and proof of insurance.
What is new since COVID-19 is the sheer volume of remote workers in locations other than that of their employing entity. In addition, some employees may be seeking to work remotely in global destinations that are not yet offering remote worker visas, with geographic considerations, lifestyle choices and travel restrictions perhaps more top of mind than what the immigration requirements are that they must meet.

> **"This raises a whole new level of tracking and scrutiny required by employers to ensure they - and their employees - meet a variety of complex and rapidly changing compliance requirements."**

While every company will have a unique approach to addressing a changing remote work landscape, there are some essential things that both employers and employees need to consider.

Compensation

Whether companies adjust employees' compensation by location will depend on multiple factors. Glassdoor provided an interesting discussion on the impact on pay when employees opt to move to a new location on their own volition. "A highly debated issue facing employers today is whether pay should be adjusted for their fully remote workers choosing to move to new cites. Opinion on this topic runs the gamut, from those who advocate for fully adjusting pay based on local cost of living to those who argue for a flat pay structure for remote workers—essentially arguing that geography is no longer an influential or determinative factor in setting pay in our newly remote-friendly world." However, the article goes on to say, "The reality of how pay will adjust as millions of workers go remote is complex. Every worker is different, and it's not possible to predict a single or uniform base pay adjustment that will be appropriate for all workers across varying situations and locales."

A key point of the article is that pay, for a very basic reason, will almost certainly adjust for many workers who go fully remote and locate to new cities: In labor markets, compensation varies by geography for complex reasons related to supply, demand and productivity — not just the cost of living.

Other critical elements come into play, too, such as local labor laws and whether compensation adjustments would even be permissible for foreign nationals, depending on their immigration status.

But are employees willing to accept pay cuts? A Fast survey of 600 U.S. adults found 66% willing to take a pay cut for the flexibility of working remotely. To what degree they would accept a reduction varied, however:

- 14% would accept a one-to-four percent cut
- 29% would take a five-to-14 % cut
- 17% would take a 15%-to-24% reduction, and
- 7% would take a 25% or more cut.

That said, one-third (34%) would not accept less pay for flexible remote work.

Benefits

With a growing number of employees working from home, employer policies have been shifting with regards to the type of home-office expenses the company might cover. While most companies traditionally reimburse fully or partially the usual "hard" costs (e.g., a laptop), some employers have expanded their policy to cover the "softer" costs of equipment that make the workspace more comfortable and productive.

A Mercer survey on the topic of COVID policies found that employers reimburse or provide the following remote support: laptop (56.3%), mobile phone (37%), ergonomic office equipment (23.1%), printer (21.3%), internet (17.5%), nonergonomic office equipment (16.1%), and utilities (5.2%). However, 29.5% of respondents provide no such support.

And then there is the question of travel to office locations, both in the short and longer-term. How often might employees be required to be onsite? If they have voluntarily opted to move within a close enough distance to commute in a few days a week, will there be any reimbursement incentives up to certain distances? What if the remote policy is revised once the virus risk is brought under control – but employees have opted to move to locations that are deemed to be beyond the standard definition of a reasonable commute? For those who voluntarily requested and were approved for a WFA arrangement, what will the guidelines be around cross-border business travel and potentially required testing expenses?

The Mercer research also looked at whether participants have reviewed benefit plans for risks or limitation in coverage and such employer obligations as occupational health. Respondents stated:

- Yes, we have already reviewed and made adjustments (12.5%)
- Yes, the review is in progress (29.4%)
- No, but we will review in the near term (25.7%)
- No, we do not intend to review (23.4%)

Events of the last year have turned a spotlight on just how critical it is to offer a comprehensive global medical plan to traveling employees and those on a global assignment. Verifying the policy covers an employee who elects to change locations is important to ensure continuing coverage.

Compliance

When it comes to both organizational and individual tax considerations, every situation is unique, and should be informed by the guidance of qualified professionals. But generally speaking, we know that cross-border remote work can cause both employers and employees additional tax headaches, whether those borders are global or regional. Craig Anderson, CPA, SCRP, SGMS, Vice President of AECC Mobility and current Chair of the Worldwide ERC Tax Forum, has written extensively on the U.S. perspective. "Generally speaking, taxpayers pay income tax to the state in which they work, which is defined as their 'tax home.' Although they will owe tax on the earnings to their work state, the home (residence) state will also require filing a tax return and they may possibly pay state taxes there as well.

In the U.S., employers generally need to withhold state taxes for the state in which the employee works. Some states have reciprocal agreements with neighboring states which allow the withholding of taxes based on the employee's home state tax schedule. Doing so relieves the employer and employee of withholding obligations and remitting income tax on wages earned in the nonresident work state.

Unless you live in one of the nine U.S. states with no income tax, you will always file a resident return that claims all the income you earned, regardless of where you earned it, unless reciprocity exists. This can result in situations in which the employee is subject to tax obligations in both resident and non-resident states. Most often these situations are remediated by a credit on their resident state tax return for the work state's withholding paid. Unfortunately, such credits are not consistent from state to state and may not provide complete relief from double taxation."

What does this mean? In the U.S., more Americans may find themselves in the position of filing two tax returns or even paying additional taxes, because the pandemic has them working across state lines. Complicating things even more are those workers who leave the home in a neighboring state and go isolate with parents or relatives in yet a different, third state. With each new state comes greater complexity.

> **"For companies encountering work from anywhere requests on a global basis, things become even more complex."**

Anderson also shares that "this increase in tax liability may also apply to business travelers. If you live in one state, but your employer sends you to assignments in ten other states during the course of the year, you may owe income tax in several of those states. It will all depend upon the threshold rules in each of the states that you travel to for work."

A corporate entity is subject to the corporate tax regime in a country in which it is legally established. Complications arise when employees are either unaware of or make false assumptions about their eligibility to work in certain locations without fully understanding the nuances of those requirements. Some may have unexpectedly or unavoidably worked abroad for more than 183 days (the threshold used by most countries to determine if someone should be considered a resident for tax purposes) because of travel restrictions, while other expatriate assignees may have opted to return to their home location.

Many countries reacted to the unique circumstances brought on by the pandemic by relaxing or amending current rules, though as the disruption caused by COVID-19 continued, many did not or will not extend the relief. In certain cases, the employer may face potential double taxation, penalties, and interest.

When an employee performs services abroad, even for a short period, local employment laws such as working time rules, overtime and leave entitlements, or termination rights may apply. Employers risk failing to withhold the correct income tax and social charges, and although Totalization Agreements between countries can mitigate this risk, they are not universal. If the employee works in a jurisdiction where she or he does not have the right to work, both the employee and/or the employer may face penalties, fines or expulsion from the country due to violating local immigration rules and regulations.

From an immigration perspective, it's also important to note that individuals who are on work visas for a particular destination may have restrictions that require them to perform the work at addresses specified to the issuing government and may not be able to work remotely in their host location without approval.

Practical Steps

The way we work is clearly changing, and employers are looking at a variety of ways to attract and retain the best talent while optimizing employee satisfaction and engagement. The reality is, however, for many of the reasons outlined, WFA or broad-based remote work policies won't work for every organization, individual, or location. The company culture, for example, might favor having the majority of employees in close physical proximity, particularly if the enterprise is small. Leadership might also prefer to implement consistent approaches to work; having employees scattered in different locations might be counter to that philosophy. In addition, specific industry restrictions and regulations, plus the nature of the majority of the many of the roles within the organization may make remote work impossible.

Even if it is feasible, employers must carefully consider to what extent they want to fully implement a flexible strategy. They need to fully understand what it will mean for compensation, tax, immigration, payroll and benefit tracking and administration, and exactly what is required to remain compliant while implementing consistent standards and rules. Further, if compensation and benefits are to be adjusted, where possible, the changes must be fair—as well as transparent through open communication. Another consideration is employee morale: What will the impact be on the entire organization if the workforce is not happy with compensation adjustments or the blend of onsite and remote arrangements?

To make the best decision, sufficient research must be done upfront. In addition to working closely with tax and legal teams, companies could consider asking for employee feedback, surveying other company policies, or reviewing existing policies to identify what changes might be necessary. Management should have the opportunity to review the data, the rationale, and the proposals. Full compliance, management buy-in and open, transparent communication will be crucial to a delocation or WFA talent strategy's success.

If you enjoyed this article, **subscribe** to our quarterly update - **Mobility Beat**.

Subscribe Now

By Kristin White,
Senior Manager, Content and Campaign Strategy

kristin.white@sterlinglexicon.com

ABOUT THE AUTHOR

Kristin is Sterling Lexicon's Senior Manager, Content and Campaign Strategy, where she brings more than 25 years of experience in global workforce mobility, marketing, editorial planning and communications to her role. Before joining Sterling Lexicon, she worked for many years at Worldwide ERC® in collaboration with cross-departmental teams and industry stakeholders to develop in-person and virtual event program, website article and print publication content, including Mobility magazine.