

Contact Deloitte



Constantin Betz

Partner

Tel: + 49 211 8772 4761
Mobile: + 49 151 58070542
Email: cbetz@deloitte.de



Konstanze Dusch

Director

Tel: + 49 69 75695 6202
Mobile: + 49 151 18293192
Email: kdusch@deloitte.de



Daniel Riehle

Senior Manager

Tel: + 49 711 16554 7222
Mobile: + 49 151 58071434
Email: driehle@deloitte.de

Contact VAB



Markus Erb

Authorized Representative and Director

Tel: + 49 69 975850 0
Mobile: + 49 172 6949883
Email: markus.erb@vab.de



Corporate tax aspects

In addition to the possible effects of working abroad for the employees, there may also be corporate tax effects due to the creation of a permanent establishment in the host country.

The following constellations in particular increase the risk:

- Senior executives, e.g. managing directors, authorised signatories, other authorised representatives or sales staff are temporarily working from abroad.
- A large number of employees work in the host country at the same time or in sequence on an ongoing basis.

The consequences of having a permanent establishment abroad can be manifold and include the following:

- Registration of the employer with the foreign tax authorities
- Submission of an annual tax return and determination of the income that may be taxable
- Obligation to file further tax returns (trade tax, nexus taxes such as municipal/state tax)

Finally, the creation of a permanent establishment will also have an impact on the personal tax liability of the employees and on the withholding obligations of the employer.

Thus, the host country will regularly have the right of taxation on the proportionate salary attributable to the activity in this country and the employer must pay these taxes to the foreign tax authorities.



Employer recommendations for action

- Examination of possible tax, social security and immigration law implications of the work abroad prior to travelling
- Set up an approval process for remote work abroad
- Define a maximum duration and suitable employee groups (is the activity suitable for remote work/are they executives or sales staff)
- A case-by-case approach is preferred compared to a blanket approval ("a stay in country X is always harmless"/"a stay of X days is always harmless").
- Apply for the necessary certificates and notifications in time (A1 certificate, notifications according to the Posted Workers Directive, work and/or residence permits)
- On the long run: Set up a remote work policy and implement IT-supported solutions to answer questions regarding tax, social security and immigration law

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Remote Work at Foreign Banks



Remote Work at Foreign Banks

Employers and employees have come to know and appreciate the advantages of the new forms of work. Increasingly, the possibility of working “remotely” is no longer limited to the home office, but is more often seen across borders.

The motives and the execution of working remotely across borders can be quite different and range from short-term activities due to visiting friends or relatives abroad to so-called “workation” (working abroad after a holiday) or even to a planned “change of perspective” through a long-term activity abroad.

What all alternatives have in common, however, is that the motivation is to be found in the personal rather than the professional sphere and thus differ from a “business trip”.

Accordingly, there may be subsequent challenges with regard to tax, social security and immigration law compliance for both the employee and the employer:



Income and wage tax aspects

- Possible tax-free reimbursement or provision of typical home office expenses (e.g. office furniture, technical equipment, consumables, internet and telecommunication costs) as well as effects on the taxation of the non-cash benefit for the use of the company car for travelling between home and the regular place of work
- Allocation of the right of taxation to the host country concerned, especially in the case of a longer stay or in countries where a double taxation agreement is not applicable (e.g. Brazil, Hong Kong)
- Particular attention should be paid to employees who already have certain ties in the host country concerned, e.g. due to nationality, family or an existing (second) residence
- Tax registration and payment obligations (e.g. wage tax withholding by facilitating a payroll) for the employer in the host country concerned



Social security law aspects

- Determination of the applicable social security law and identification of obligations arising for the employer and, if applicable, employees (in particular registration, reporting and contribution obligations)
- Fulfilment of all obligations under the (more complex) foreign social security law
- Treatment and coverage of an occupational accident during remote work abroad



Immigration law aspects

- Checking and obtaining necessary permits, particularly work permits, in the host country
- Effects of short- and long-term absences or addendums to the employment contract on an existing residence status
- Triggering of registration obligations with the foreign authorities due to a possible temporary shift of the centre of life