

Manage your workforce with agility and confidence

A guide for tax and legal leaders during the COVID-19 crisis

The digital revolution and its impacts on the work we do, the people who do it, and where they do it have been a long-standing conversation for many organizations as they continue to evolve their workforce strategy. Then the COVID-19 pandemic hit. Suddenly, the future of work is now and the aspects of managing a distributed workforce have shifted and become mission critical.

Amid the crisis, many organizations are responding to the global pandemic by embracing virtual collaboration tools and practices to increase corporate resilience. People are working and teaming remotely. For tax and legal leaders, there are immediate workforce questions around the mobility and safety of their people, while having to stay current with a rapidly changing regulatory environment. At the top of their agendas are pressing issues such as: immigration and cross-border tax considerations; implications for employment law and employment tax; and the business and human realities of supporting and retaining employees. Navigating the landscape created by this current disruption requires the close collaboration between the tax, legal, and human resources (HR) departments.

Recovery: A Complex Landscape

Start from a position of strength

Assess disruption to the business and identify immediate business and tax, social security, and immigration priorities. Collect information, review the cross-border tax implications, and corporate mobility-related tax compliance, and consider the impact of new relief measures. Understand that you may need to continually assess and readjust your initial approach to manage uncertainty, volatility, and workforce disruption.

Our work supporting HR, mobility, immigration, and compensation and reward functions as they respond to this crisis reveals that employers are taking an immediate, clear, and confident response to workforce disruption. Responding to the pandemic with agility means the company needs to act fast; while simultaneously managing risk due to COVID-related workforce issues. Leaders don't have the luxury of time and often need to make on-the-spot decisions. Multinationals operating across many jurisdictions may also face complex legal and immigration issues. It is challenging in this environment to manage uncertainty and mitigate risk for situations infrequently encountered until now, especially when broader jurisdictional guidance may still be evolving or vague.

Not considering the potential tax, legal and compliance aspects brought about by a displaced, disrupted workforce could be costly. The lasting effects of these quick decisions that address employees' needs can impact corporate costs—and ultimately affect the company's bottom line.

Recognizing that many companies have already embraced virtual work and implemented employee well-being programs, we have identified **four additional priority areas** to continue to focus on during the recovery phase of the pandemic.



TAX AND COMPLIANCE IMPLICATIONS OF REMOTE WORK

Understand cross-border employment and the related tax issues: The Organisation for Economic Cooperation and Development (OECD) has issued guidance on the tax implications of the employment changes coming about from the global pandemic involving cross-border matters. They have recommended local tax authorities provide guidance on the impacts of remote work, and while several countries have issued temporary guidance, many countries have not. Due to travel restrictions, cross-border workers may be working in locations where they did not plan to be, and those work locations may be unapproved by the company. These new patterns could lead to undesirable results for both the individual and company.

Remote working doesn't necessarily mean employees are working from home—it could mean that they are unable to return to their home locations due to COVID-19. Knowing where people are during the crisis is essential. Remote work can be across jurisdictions—state and international—and it's critical to understand permanent establishment risk, state nexus impacts, the payroll and income tax implications as well as inter-company cost charging protocols.

Questions about remote work locations may also surface compliance issues from prior years that need to be addressed. Understanding the tax implications of remote work can present opportunities to increase compliance and mitigate regulatory and reputational risk. However, addressing these issues may also increase the risk of uncovering more uncertainty.

ACTIONS TO CONSIDER

Create a process to inventory employee locations and perform a risk review to identify the people working in each location and the type of work they are doing there. Confirm if work, and which type, can continue in each location. As additional jurisdictional guidance is released, determine risk priorities so that as soon as stay-at-home restrictions are lifted and as borders open, people have clear guidance about vacating their temporary locations quickly (or contingency plans if they choose to remain in place).



UNDERSTAND THE IMPLICATIONS OF NEW WORKFORCE MEASURES

Workforce strategy: As companies respond, they need to implement measures to keep their employees safe, address travel restrictions, and agree to alternative and/or remote working arrangements. As businesses shift and move towards remote working, consider the effect on:

Mobility

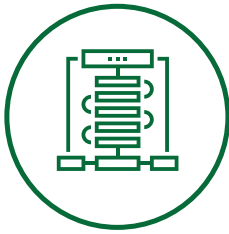
- Policy
- Personal taxation
- Employer obligations
- Corporate tax exposure (i.e., Permanent Establishment)
- Quarantine considerations

Employment

- Temporary closure of operations
- Stand down of employees
- Meeting salary costs
- Alternative forms of remuneration
- Employee share schemes
- Redundancies

Make informed headcount decisions: Rationalizing workforce cutbacks that run too deep and too early can have legal and immigration consequences and a harmful impact on an organization's ability to recover quickly. Governments have enacted stimulus packages and money is available for businesses. Consider how these provisions and funds can be leveraged to minimize workforce disruption and build contingencies for when stimulus money runs out.

Develop integrated business and workforce plans to identify hidden costs and benefits of workforce reduction. These decisions should consider various global governmental stimulus/incentive approaches and optimize globally rather than by line-of-business when appropriate. Country-specific relief measures may include use of tax savings to improve cash flow and tax planning to reallocate funds and stimulus-related payroll tax credits and deferrals.



LEVERAGE GOVERNMENT STIMULUS MEASURES

Keep informed and up to date on governmental tax, financial, business, and social measures: Governments around the world have rapidly mobilized to support businesses and individuals as they seek to mitigate the economic impacts of COVID-19. They include deferrals of tax payments and filings, new tax reliefs and incentives, and administrative simplifications. Measures do, however, vary from country to country and regulatory reactions are unpredictable. Expect inconsistencies across jurisdictions, tax changes that leave much room for interpretation and require further clarification, and uncertainty about time-periods for the relaxing of norms.

Recently released instructions from the OECD still requires monitoring and tax jurisdictional bodies have been encouraged by the OECD to provide clarified, documented guidance. Until local tax jurisdictional bodies issue this guidance, the local existing laws still prevail. Organizations and their leadership must stay current on tax legislative changes by country as they are announced and optimize measures for their organizations. Both tax and legal leaders need to scenario plan and obtain buy from with their business stakeholders to understand the implications of their decisions. Additionally, as the landscape is continuously evolving, it is important to revisit the scenario plans as they may need to be recalibrated. Asking difficult questions right now is paramount, such as: “What happens when treasuries are depleted, when stimulus money runs out? What’s next?”

STAY INFORMED

For an up-to-date view of the latest tax and financial measures enacted by country, access the [Deloitte COVID-19 Tax & Financial Measures web portal](#).

ENABLE THE BUSINESS

As the pandemic evolves, it’s important for tax and legal leaders to stay close to their people and the executive team, to move quickly to address immediate needs, and to be proactive.

- **Engage short-term strategies for business continuity**—such as tax, payroll, mobility and immigration issues—and explore potential scenarios and their tax and legal implications both near and longer-term.
- **Ensure your team has a strong voice in the cross-functional COVID-19 task force** to understand the impacts of workforce disruption. For instance, in-house legal counsel can help guide the business based on local employment laws as well as help safeguard against risk when your team approaches unfamiliar territory. Tax can model financial impacts and hidden cost assessments like payroll and employment taxes and corporate permanent establishment exposures.
- **Be a key stakeholder in near-term policy-development.** Support efforts to accelerate the recovery and help deliver key (process, governance, and controls) outcomes.
- **Pivot with the business.** Eventually, this crisis will subside. It’s important to take time to reimagine the design of your tax and legal operating models, and to consider shifts like optimizing mobility with technology tools.

Pivot your organization to recovery: Understand how organizations will work, and people will do business after the crisis

Many business leaders foresee long-term workforce and workplace change. Perhaps tightly controlled co-location will not be as prevalent. We expect to see a lasting impact, but to what extent remains unknown. As emerging workforce disruption trends evolve (i.e., remote work), tax and legal leaders need to understand their business leaders’ philosophy of adopting those trends (enabling remote work, alternative work arrangements like gig or contract workers) in understanding how dynamic they need to be as business enablers—and understand downstream regulatory and compliance impacts. Having a seat at the table ensures compliance realities are taken into consideration when decisions are made. In addition, aligning closely with your business leaders will help you to build resilient, agile, and flexible policies for the future.

CONTACTS

Jim Pickett

Principal
GES Global and US Market Leader
Deloitte Tax LLP
jampickett@deloitte.com

Michael Clarke

Partner
GES US Workforce Strategies Co-Lead
Deloitte Tax LLP
michaelclarke@deloitte.com

Nicole Patterson

Principal
GES US Workforce Strategies Co-Lead
Deloitte Tax LLP
njpatterson@deloitte.com

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