



Remote Workers Webinar

11 February 2021



**MAKING AN
IMPACT THAT
MATTERS**
since 1845

Who will you hear today?

Hosts



Charissa Schutte
cschutte@Deloitte.nl



Martijn Verwijs
mverwijs@Deloitte.nl

Immigration, employment law & social security



Elif Kamaci
ekamaci@deloitte.nl



Fraukje Panis
fpanis@Deloitte.nl



Martijn Mul
mmul@Deloitte.nl

Tax & Strategy



Stijn Mattijssen
smattijssen@Deloitte.nl



Loes van Hulten
lvanhulten@Deloitte.nl



Ross Markham
romarkham@Deloitte.co.uk

A few practical remarks

- The slides of today will be shared next week
- Please raise questions via the Q&A function
- We will ask 5 poll questions to you
- Enjoy and learn!



Remote Work: Is It a Virtual Threat to Your Culture?

Greece is slashing income taxes to lure remote workers from abroad

FACEBOOK SAYS IT WILL PERMANENTLY SHIFT TENS OF THOUSANDS OF JOBS TO REMOTE WORK

Up to half of employees could work remotely within five to 10 years, CEO Mark Zuckerberg says in an interview

This Hawaii program will pay your airfare to live and work remotely from the islands

Remote work considerations

A variety of stakeholders across functions need to align and identify priority actions and shared goals to ensure successful remote working can be achieved – enhancing employee experience and business unit efficiencies, while reducing compliance (tax and legal) risks.

CORPORATE TAX

- Domestic and international corporate tax implications
- Permanent establishment risk
- Intercompany agreements & transfer pricing considerations
- Eligibility matrix: triage & exclusions

EMPLOYMENT TAX

- Employment tax and social security assessments
- Income tax withholding and filing requirements
- Entity and payroll registration requirements
- Income and payroll tax reporting and cost projections

DATA / TECHNOLOGY

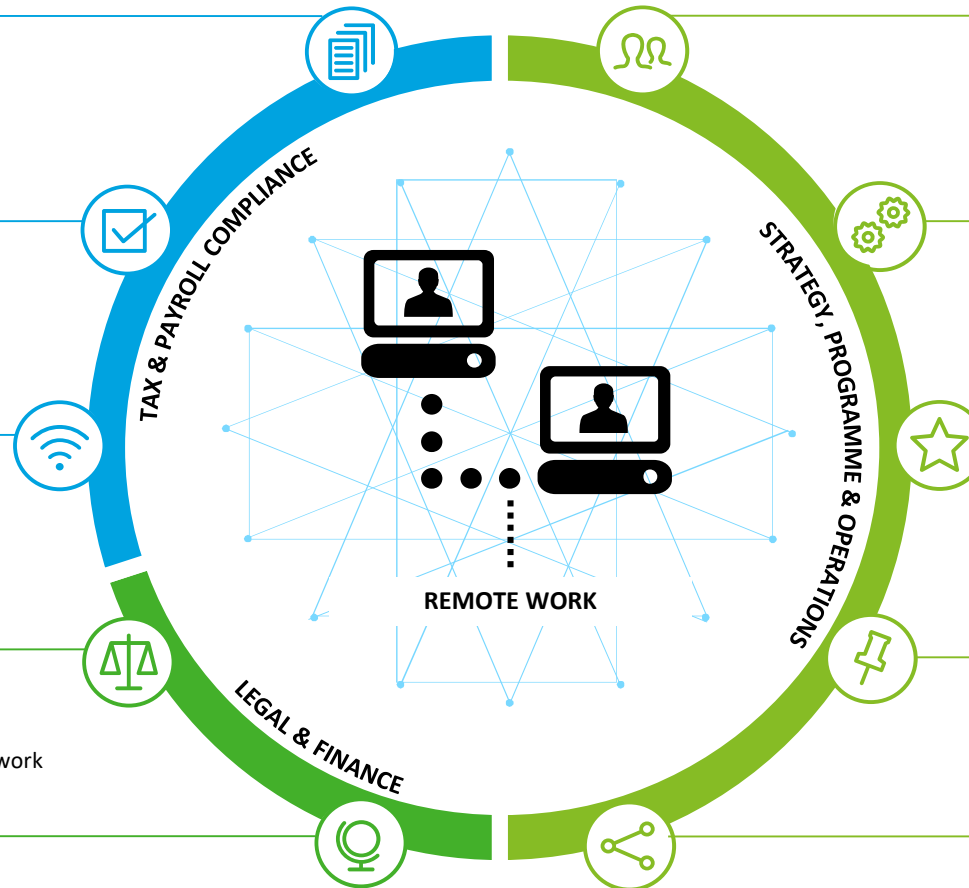
- Continuous data tracking and reporting
- Compliance analysis
- Flagging and quantification of risks
- Business travel tracking
- Approval process for remote working and tracking

IMMIGRATION / EMPLOYMENT LAW

- Assessing right to work remotely from a particular location
- Risk exposure for individuals & family members
- Employment contracts and assignments
- Mandatory applicable employment rights based on location of work
- Communication of relevant policies to remote workers

FINANCE

- Cost modeling and financial budgeting
- Cost accruals and forecasting
- Cost savings



TALENT STRATEGY

- Enterprise philosophy and strategy
- Workforce segmentation and job profile analysis
- High-performance team in a virtual environment
- Impact to strategies across talent lifecycle (recruitment, onboarding, performance management etc.)

PROGRAMME & OPERATIONS

- Remote policies and guidelines
- Roles and responsibilities, processes and tools
- Mapping key remote working scenarios
- Employee and stakeholder communications
- Governance and risk management framework
- Workspace planning & real estate

REWARD

- Compensation and benefits design and implementation
- Benchmarking
- Pension considerations
- Cross-border equity/incentive considerations

GLOBAL EMPLOYMENT MODEL

- Centralising processes
- Location and registrations
- Contract and remuneration considerations
- End to end process mapping

IP & DATA SECURITY

- Intellectual property safety
- Data Privacy & Network security risks



Immigration

Immigration

Working remotely - What is allowed from a legal perspective?



- Global Immigration implications of being the outside of the country of employment for an extended period of time.

Non-compliance consequences:



• For employer:

Monetary fine (if not notified), salary criterion change, withdrawal of sponsorship, loss of permits, business impact, financial impact, negative employee experience.

• For employee:

Loss of permit, residency gap, negative employee experience.

What if employee works remotely for a longer period?



- Employer should notify the Dutch immigration authorities (IND);
- Employee should deregister from the Dutch population register (BRP).

Moving the main residence in the Netherlands:



- Highly Skilled Migrant (HSM) staying/working abroad for more than 8 months within a year* ;
- HSM residing abroad for 4 consecutive months in 3 consecutive years;
- Intra Corporate Transferee staying/working abroad for 6 consecutive months within 12 months (exemptions could apply).

** For dependents for more than 6 consecutive months*

Immigration

Points of attention



- Residence/work permit requirements based on the national legislation of the country where the employee remotely works;
- Create employee awareness and communicate relevant policies on remote working;
- Be aware of your people and how long they have been outside the country of employment as of day one.

What is our approach?



- Remote workers identifier survey (questionnaire) to identify displaced employees;
- Assessment, prioritization and monitoring;
- Actions IND to secure permits and compliancy.



Employment law

A right or an obligation to work from home (abroad)?

01. Your (foreign) employee requests to work from home (abroad): what do to?



- Dutch employment law contract (or an expat/cross border employee with foreign law? -> check governing law!)
- Conditions request -> employee: at least 6 months employed, employer: has 10 employees (or more)
- Further, the request should be done (at least) 2 months prior to the (proposed) start date (to work from home)
- Attention point: the employer must inform the employee about the request ultimately one month prior to the (proposed) start date
- A refusal (to work from home) only in case of compelling business interests [new Bill to be adopted?]
- The employer has the duty to substantiate the refusal in writing
- Reasons for refusal: burden of additional (travel-)costs, harmful effect to meet customer's demand, detrimental impact on nature of job?

02. You prefer your (foreign) employee to work from home (abroad): what to do?



- Dutch employment law contract (or an expat/cross border employee with foreign law -> check governing law!)
- Employer's right to give instructions
- Working from home is in line with the Dutch governments COVID-19 guidelines
- No case law (yet)
- Expat policy: possibility to early end an assignment? Arrangements about (changing to) a virtual assignment (travel allowances, costs of living, housing allowance?)

Practical tips:



- Check the collective labour agreement (if applicable). A CLA might include working from home regulations
- -Set out any specific requests for working in public places, for example on security (not allowing to use public Wi-Fi)
- -Include general guidelines regarding working from home for different groups of employees (local employees, cross border employees, expats etc.)

Your employee is going to work from home abroad: what to think about?

01. Your (foreign) employee is going to work temporary from home abroad



- Dutch employment law contract & habitual place of work is the Netherlands
- Dutch Working Conditions Act applies
- Employers remain fully responsible for providing and maintaining a healthy and safe work environment
- Provision of (among other things) an ergonomic desk and chair, a proper monitor, keyboard and mouse
- Attention point: a foreign Working Conditions Act might apply as well (and prevails if offering more protection to the employee), possible liabilities for the employer based on foreign law
- Possible solutions: working from home addendum in line with foreign law, photo & video check of the workplace at home?

02. Your (foreign) employee is going to work indefinite from home abroad



- Dutch employment law contract but the habitual place of work changes
- Dutch Working Condition Act applies
- But: Full (mandatory) foreign law applies as well (and prevails if offering more protection to the employee)
- Risk: cherry picking & liabilities for the (Dutch) employer
- Possible solution: change governing law employment contract (this might depend on the country from where your employee is working from home)
- Alignment with social security (e.g., in case of illness)?

Practical tips:



- Check if a foreign (generally binding) collective labour agreement applies to the work activities of your employee working abroad.



International Social Security

What when forced to work from home?

01. Cross Border Commuter working from home



- SVB: flexible approach when normally working in another country but now working from home due to Covid-19
- Belgium, Germany and France confirmed their flexible approach until 30 June 2021
- No A1 certificate has to be applied for

POINTS OF ATTENTION:

- Continue payment of social security contributions in the same country
- Continue health insurance in the same country

02. Accepting a local contract in another country but not being able to move yet



- SVB: social security situation does change when not being able to move yet due to Covid-19
- Neighbouring countries have not published their approach on this particular group

POINTS OF ATTENTION:

- Start payment of social security contributions as for a regular new hire
- Apply for a Dutch health insurance; NOTE: you will first need to obtain a BSN

Practical tips:



- Keep track on when the flexible approaches of the authorities come to an end

Your employee is requesting to temporarily work from abroad: what to think about?

03. Allowing your employee to temporarily work abroad from a sunny place?



- Is this employee an 'assigned' person based on international social security treaties?
- Is the private initiative/intention for this employment abroad an obstacle?
- SVB:
 - Legal Department has not published it's opinion yet
 - Case handlers tend to grant general approvals to companies and grant individual A1's
- Other countries tended not to grant A1 certificate in case of a private initiative/intention
- What about non-treaty countries?

POINTS OF ATTENTION:

- Obtain clarity from the SVB (up-front) via an A1 certificate

04. What when the Covid-19 measures are over?



- Flexible approach for Cross Border Commuters will cease
- Flexible approach for local hires will cease
- Requests to temporarily work abroad with a private initiative/intention will keep coming
 - Unsure how the SVB's legal department will take position
- LASTLY: Future new local hires: 100% working in another country

Practical tips:



- After Covid-19 measures are over your specific attention is required for Cross Border Commuters that keep working from home!



Employment tax

Thuiswerkende grenswerker dreigt in fiscaal en sociaal niemandsland te belanden

“Remote worker risks ending up in tax and social no man's land”

Reasons not to go along with remote work? No - if you prepare for the consequences!

Remote worker



- Move and work elsewhere?
- Work more from home country?

Payroll



- Always needed?
- Easements?

Tax residency

OECD: No change as a result of a temporary dislocation



Tax treaties

Special agreements are concluded with Belgium and Germany

183-days rule



- When is it relevant?
- Easements?

30%-facility



- Losing benefit?
- Start date?

Employer implications

Implications can be additional costs (advice, services and possibly tax) and compliance obligations to be met

Employment Tax – case study

 Employer	 Normal work location	 Tax residence	 Remote work situation?	 183-days rule relevant?	 Tax consequence of remote work?
Netherlands	Netherlands	Netherlands	Working temporary in Country X	Yes	Taxable in Country X if 183-days threshold is exceeded
Netherlands	Netherlands	Country X	Working from home in Country X	No	More is taxable in Country X, less in the Netherlands
Country X	Country X	Netherlands	Working from home in the Netherlands	No	More is taxable in the Netherlands, less in Country X
Country X	Country X	Country X	Working temporary in the Netherlands	Yes	Taxable in the Netherlands if 183-days threshold is exceeded

Considerations

- 183 days can be **counted** in a tax year, 12-month period or calendar year, depending on the content of the applicable tax treaty.
- If taxable in the country where the employer has no presence, the employer must be aware of the possible risk of a **permanent establishment**.
- The tax liability and / or **withholding obligation** can shift to the home-work country in several cases, possible exceptions for **idle** and **stranded** workers.
- If Country X is Germany or Belgium, check if the **bilateral agreement** can be applied (extended to April 1, 2021).
- It is important to use (work) **calendars** to keep track of the location of employees.
- **Other rules** may be applicable in case of civil workers, military, cabin crews, directors and professors etc.



Corporate income tax

Corporate income tax impact

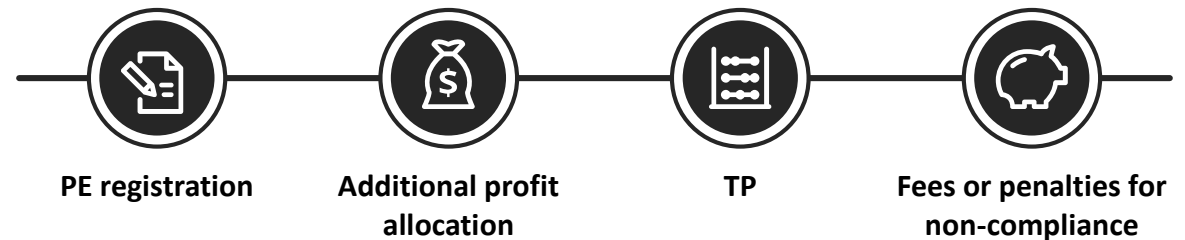
Permanent establishment - Home office



OECD analysis of tax treaties and the impact of the COVID-19 crisis (21 January 2021)

HOME OFFICE

- Degree of permanency
- At the disposal
- Public health measure



Corporate income tax impact

Company residence & substance requirements

Company residence



- Concerns related to the residence status of a company (place of effective management): dual residence
 - Fiscal unity
 - Treaty benefits

State A
UK



Substance requirements

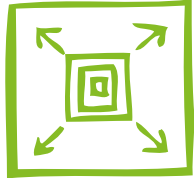


- Relevance of place of board decisions
- Application of anti-abuse provisions:
 - Corporate Income Tax Act
 - Dividend Withholding Tax Act
 - Etc.



Strategic approaches to remote working

Approaches to the management of Remote Work vary significantly across organisations



Reactive

- Handling displaced worker cases as they arise without investigating broader exposure
- No clear process to approve, manage, track or action any remote working arrangements



Active

- Actively working to identify, assess and resolve displaced workers
- Developing a clear interim solution, including an informal remote worker approval process, limited tracking and de-centralized management of cases



Proactive

- Developing a formal remote worker approval process, with centralized management, and automated tracking
- Actively exploring roles, performance and policy to enable a long-term remote work program

What are we hearing on remote work strategy?



88% of organisations are looking to develop a remote working strategy so individuals can work remotely either part time or indefinitely



77% are looking to develop a longer-term remote working policy for all or parts of the organisation

What are we hearing on in/out of office approaches?



24% of organizations believe that 75% of their employees will spend over half their time in office



27% of organizations believe that majority of their employees will work remotely for more than half of their time



23% of organizations have not determined their position on remote work

What are we hearing on remote work strategy?



32% of organisations put a process in place to track all remote workers following the start of the pandemic



57% of organizations are starting to identify or want to put in place mechanisms to track remote workers

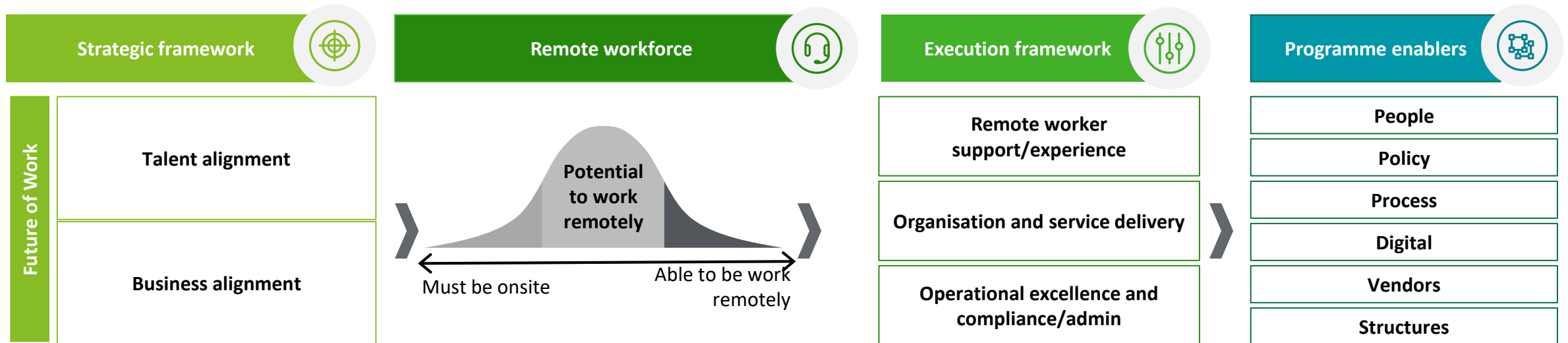
Sources:

Deloitte client Dbrief on 7 October 2020

Deloitte Remote Working Dbrief with c. 400 clients on 5 November 2020

Remote Worker Building Blocks

Remote worker building blocks is a framework developed by Deloitte to assist companies who are looking to optimise their remote worker programme. This framework encourages initial alignment to business and talent objectives before programme enablers are utilised or changed.



Data management and reporting

What questions will you receive answers to?



Setting up a remote working programme

Strategy



- What are our objectives for remote work and how does this fit into the company's overall talent strategy? What are the implications for our work, workforce and workplace?
- How can we sustain high-performance teams in a remote working environment and provide support from a talent management perspective?
- What is the strategic framework for making policy and operational decisions?

Policy



- What are the guidelines for approving and managing remote workers?
- What are the compliance considerations or guardrails to minimise risk exposure?

Eligibility (and any location or role exclusions)

Legal and Compliance Guidelines

Framework and guardrails

Benefit and Employment Terms

Operations



- Who are the stakeholders involved and what are each of their roles and responsibilities?
- What are the process and tools to operationalize the remote work program?

Roles and Responsibilities

Communication

Service Delivery Model

Technology and Tools

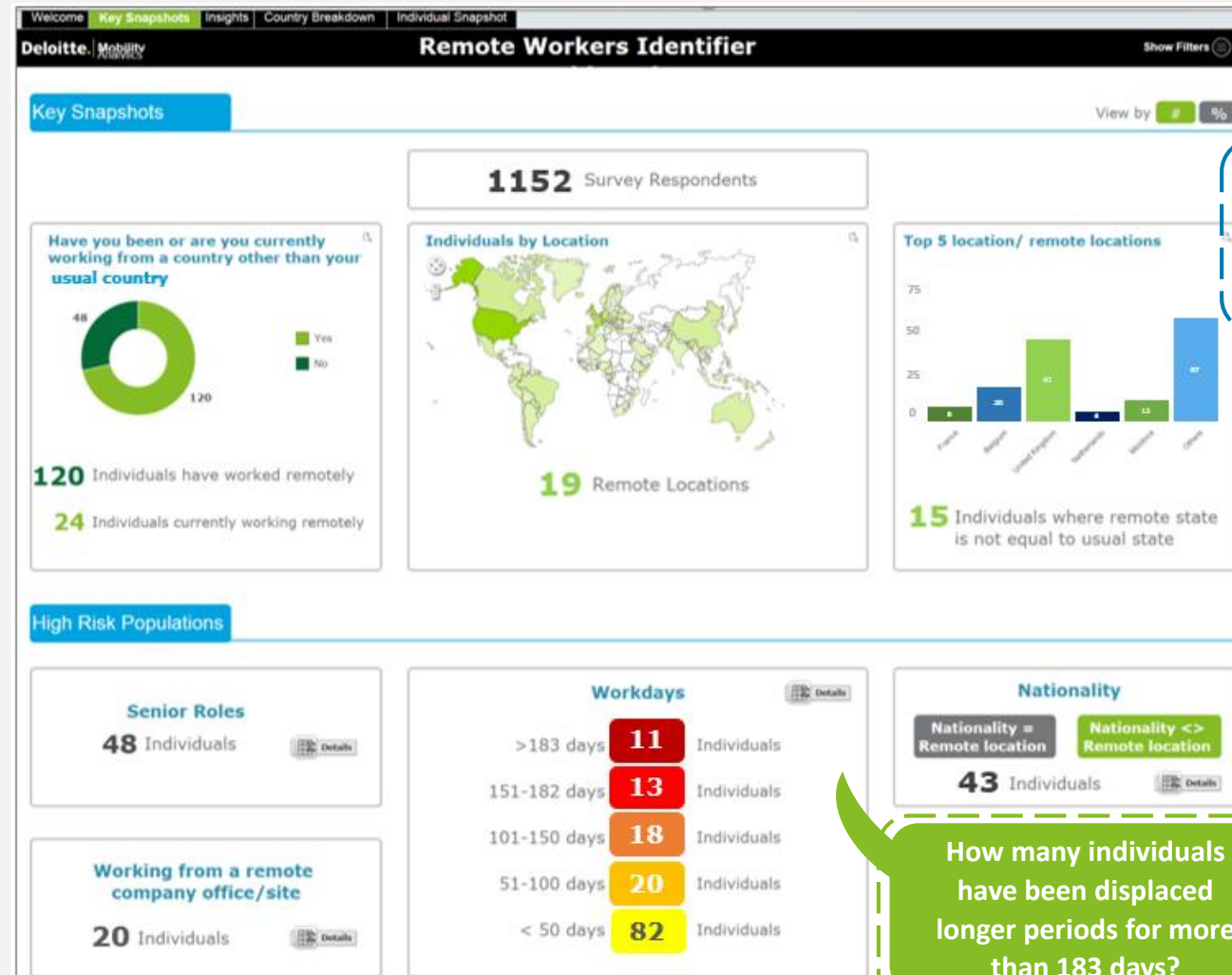


Recap

Remote Workers Identifier dashboard

How many employees have been/are still displaced?

Are there cluster locations?
e.g. locations where there are several individuals working remotely



How many of the remote workers are individuals working in a senior role?

How many individuals have been displaced longer periods for more than 183 days?

Remote work considerations

A variety of stakeholders across functions need to align and identify priority actions and shared goals to ensure successful remote working can be achieved – enhancing employee experience and business unit efficiencies, while reducing compliance (tax and legal) risks.

CORPORATE TAX

- Domestic and international corporate tax implications
- Permanent establishment risk
- Intercompany agreements & transfer pricing considerations
- Eligibility matrix: triage & exclusions

EMPLOYMENT TAX

- Employment tax and social security assessments
- Income tax withholding and filing requirements
- Entity and payroll registration requirements
- Income and payroll tax reporting and cost projections

DATA / TECHNOLOGY

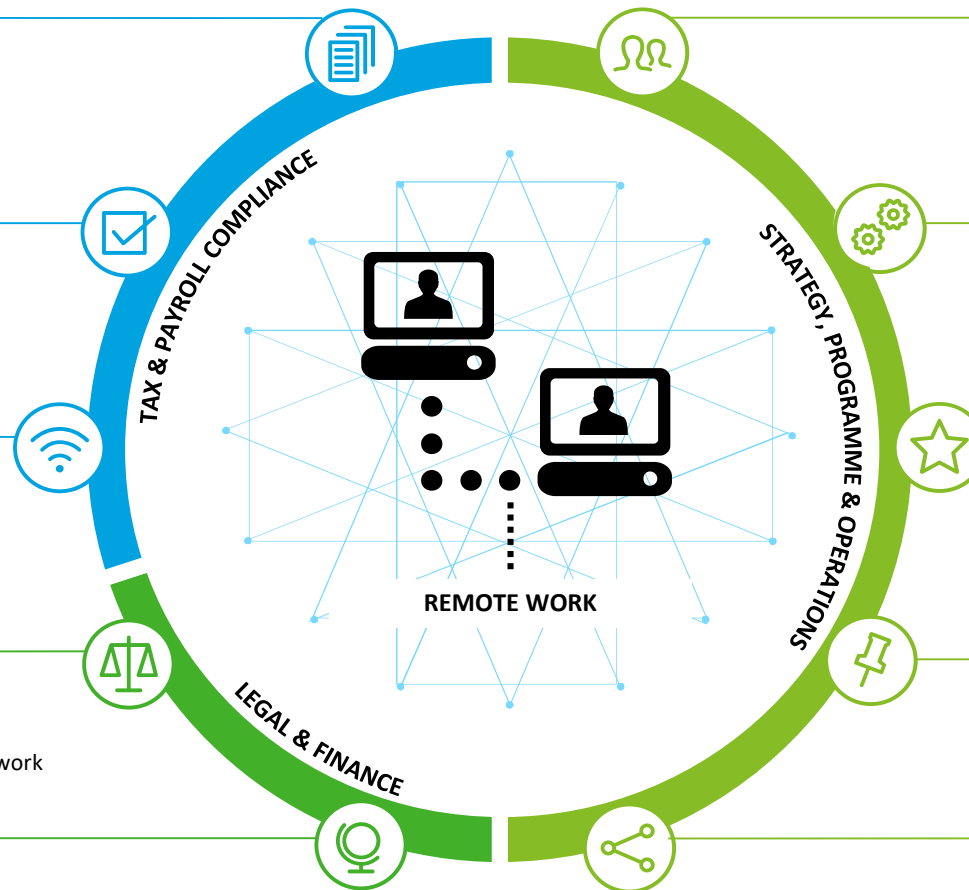
- Continuous data tracking and reporting
- Compliance analysis
- Flagging and quantification of risks
- Business travel tracking
- Approval process for remote working and tracking

IMMIGRATION / EMPLOYMENT LAW

- Assessing right to work remotely from a particular location
- Risk exposure for individuals & family members
- Employment contracts and assignments
- Mandatory applicable employment rights based on location of work
- Communication of relevant policies to remote workers

FINANCE

- Cost modeling and financial budgeting
- Cost accruals and forecasting
- Cost savings



TALENT STRATEGY

- Enterprise philosophy and strategy
- Workforce segmentation and job profile analysis
- High-performance team in a virtual environment
- Impact to strategies across talent lifecycle (recruitment, onboarding, performance management etc.)

PROGRAMME & OPERATIONS

- Remote policies and guidelines
- Roles and responsibilities, processes and tools
- Mapping key remote working scenarios
- Employee and stakeholder communications
- Governance and risk management framework
- Workspace planning & real estate

REWARD

- Compensation and benefits design and implementation
- Benchmarking
- Pension considerations
- Cross-border equity/incentive considerations

GLOBAL EMPLOYMENT MODEL

- Centralising processes
- Location and registrations
- Contract and remuneration considerations
- End to end process mapping

IP & DATA SECURITY

- Intellectual property safety
- Data Privacy & Network security risks

Questions & contact

Hosts



Charissa Schutte
cschutte@Deloitte.nl



Martijn Verwijs
mverwijs@Deloitte.nl

Immigration, employment law & social security



Elif Kamaci
ekamaci@deloitte.nl



Fraukje Panis
fpanis@Deloitte.nl



Martijn Mul
mmul@Deloitte.nl

Tax & strategy



Stijn Mattijssen
smattijssen@Deloitte.nl



Loes van Hulten
lvanhulten@Deloitte.nl



Ross Markham
romarkham@Deloitte.co.uk

Closing remarks

- The slides of today will be shared next week
- Feel free to reach out to our team in case of any specific questions
- We hope you enjoyed the session!





Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited ("DTTL"), its global network of member firms, and their related entities. DTTL (also referred to as "Deloitte Global") and each of its member firms are legally separate and independent entities. DTTL does not provide services to clients. Please see www.deloitte.nl/about to learn more.

Deloitte is a leading global provider of audit and assurance, consulting, financial advisory, risk advisory, tax and related services. Our network of member firms in more than 150 countries serves four out of five Fortune Global 500® companies. Learn how Deloitte's approximately 264,000 people make an impact that matters at www.deloitte.nl.

This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited, its member firms, or their related entities (collectively, the "Deloitte network") is, by means of this communication, rendering professional advice or services. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser. No entity in the Deloitte network shall be responsible for any loss whatsoever sustained by any person who relies on this communication.

© 2021 Deloitte The Netherlands

Designed by CoRe Creative Services. RITM0632747