

Remote working for GCC employers

10 key questions employers should be asking

COVID-19 has been a challenge for many people world-wide which has impacted how and where people work. Individuals have been working remotely from home, and in some cases, that home has been in a different country to the one where they are employed. Some individuals will see this as an advantage as they have benefited from working in locations which are in close proximity to their family and friends. Employers have also benefited from this as they now have a more flexible workforce. Employers within countries located in the Gulf Cooperation Council (GCC) have been significantly impacted by this as they have a diverse workforce. Below are some examples of the way employees are working:

Individuals are employed by a GCC entity and are on a GCC employment contract, but the individuals live and work remotely in Europe.

Individuals are employed in and working from North America for a GCC entity, with North American employment contracts.

Individuals with dual employment in the GCC and Africa, working remotely as and when required.

Key considerations for remote working:

Organizations are currently considering whether remote working will be incorporated into their future workforce strategy, either in the short, medium or long term. This requires resilient leaders across enabling functions to evolve the organizations' thinking and approach to remote working. Whilst GCC employers are seeking to accommodate a broader remote working balance to their overall approach, they need to consider whether they have adequate systems and policies in place to enable an effective and efficient remote working program.

As part of that, employers should be aware of some of the tax, employment and immigration considerations related to remote working, including compliance considerations.

For employers, these could be:

- Employer income tax and social security (both employee and employer) withholding obligations.
- Personnel working abroad could create a taxable presence (PE), which could trigger corporate tax and transfer pricing implications.
- Fixed establishments for Value Added Tax (VAT) purposes, which may trigger VAT related filing or payment obligations.
- Implications for visa quotas, labor market testing and nationalization.

For employees, some of the considerations are:

- Whether they have a valid visa and the right to work from their current location.
- Personal tax, social security and filing obligations.
- Implications for pension and/or end of service gratuity.
- Time limit for immigration and tax purposes.

Whilst these may not be the employer's responsibility, they may wish to support their employees by making them aware of the applicable laws or supporting them in order to abide by.

Useful questions to ask in relation to remote working include:

01 Do you have a record of remote workers who are working for you from a different country and how long have they been working this way?

To understand the scale to consider, organizations should identify individuals working remotely and categorize them according to the length of time spent in another country/seniority/clustering in certain locations etc. Generally, where senior employees spend significant periods working from a particular location, the risk of the creation of a taxable presence or permanent establishment (and the associated obligations) in that jurisdiction is higher.

02 Do the remote workers have the right to work from that country?

Some countries, such as the United Arab Emirates (UAE), have introduced special visas for remote working. It should be taken into consideration whether remote workers in other countries have the right to work there.

03 How does the concept of having a remote worker interact with regional nationalization initiatives such as Saudization?

The regional nationalization initiatives usually apply to employees working domestically, who normally have a local employment contract and are on a local residency visa. In some cases, employers must report the amounts paid to these individuals via Wage Protection Systems. One point to consider is how these would apply in relation to a remote worker who may not need a GCC employment contract or residence visa.

04 What are the tax considerations for the employer?

Some countries oblige employers, including foreign employers with no local presence, to apply income tax and/or social security withholding in relation to the amounts paid to employees. Further, it should be considered whether having employees working from a different country would create a taxable presence or permanent establishment in that country, with the related corporate tax or transfer pricing implications.

05 **What are the tax considerations for the employee?**

Individuals should be aware of the trigger points for tax residence in the country they are working in. It is common for countries to tax their tax residents on their worldwide income so employees will need to manage their tax residence position. In addition, any workdays in country may also be subject to tax in that country or there could be a number of days the individual can work from that country without triggering tax obligations.

06 **What about social security, pensions and end of service gratuity?**

GCC nationals are normally subject to social security and non-GCC nationals working in the GCC are normally paid an end of service gratuity. Individuals working in different countries may be subject to different types of social security and/or pension contributions and any interaction with potential GCC social security or end of service gratuity should be thought through.

07 **Is the business incurring a significant amount of VAT in foreign jurisdictions due to employees being located overseas?**

It may be worth exploring whether a foreign VAT refund claim is possible.

08 **Would the remote working country employment and labor regulations, in addition to the employment contract jurisdiction laws, apply to the employee?**

Employers may find themselves in a position where they need to comply with two sets of employment laws as they apply to remote working. For example, an employee under a UAE contract working in Europe, may have rights under the employment contract as well as under the relevant European labor laws.

09 **How do employers manage benefit packages that have traditionally been market-aligned with the country of work and residence, where the employee now lives and works from a different jurisdiction?**

Employees may find themselves in a net-positive position if they choose to live and work from a country where the cost of living is lower than the country of employment. How do employers approach such situations, maintaining fairness in pay across all employees (including those who are not remote working) while benchmarking against a new and emerging market practice?

10 **What are the related policies, tax and immigration impacts for dependents of employees who are remote working?**

Employers may support remote working arrangements for their employees, but inevitably there will be an associated tax and immigration impact on the employees dependents. Employers will need to consider whether the existing policies around support for the dependents will be extend in such circumstances.

Contact us

This is currently a topic which is impacting a significant number of businesses globally. We have extensive experience supporting businesses of all sizes and in all sectors with the considerations set out above. For further information, please get in touch with our experts listed below if this is relevant to you.



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