Global Business Travelers: Strategies for Compliance

Doing business globally means deploying talent when and where you need it. Whether it's to solve talent shortages, train new staff, or expand operations to new locations, companies operating internationally need key employees to travel frequently and at a moment's notice. This activity first and foremost is a security concern: if you don't know where your employees are at any given time you cannot help them remain safe in a national disaster or a political conflict. However, even in non-urgent times, companies need to know the time, place, and activity of their travelling employees.

Given increased globalization, many governments and tax authorities are modifying and altering compliance rules pertaining to frequent business travelers in an effort to protect their own local labor market and economy. Increased government rules means increased threat of penalty. In this environment, companies must fully understand the risks involved in frequent and extended business travel and find solutions that allow them to meet their business needs without breaking any laws.

While extensive travel may advance vital business in diverse locations, business travelers can trigger liability – and potential negative exposure for their employers – by failing to heed immigration and tax rules. It's easy to assume that a couple of quick trips don't require a work permit, and very often they don't, but they may.

Take this recent example: On one of his last trips to the U.S., a project manager was answering routine customs and immigration questions at the time of entry as he had done on several previous trips without prompting any concerns. This time, after being asked if he would be "productive" on his two week trip - believing it was a ridiculous question, and knowing that he is always "productive" - he responded, "of course," triggering a three week melee into the gray area of work vs. business travel. Not only did this line of questioning elicit obvious immigration concerns, but once the Global Mobility Team became aware of the situation, they identified personal and corporate tax questions, as well as residency issues.

Here are five things companies should do to manage their global travelers.

1. *Create corporate policies for frequent business travelers*

Regardless of how they may be labeled - e.g., Global Nomads, Frequent Business Travelers, or Stealth Expats - these individuals unfortunately are often outside the scope of the typical global mobility program

and its associated policies. Traditional relocation assignments are typically defined by the length of stay in the host country, and dates can range from 60, 90, 120+ days. Business travelers, on the other hand, often go in short stints, typically less than 60 days and on a repetitive basis, and thus do not fall within the existing policies. And, the determination as to whether a work permit will be needed is most often based on the type of activity, as opposed to the length of stay. As a result, most current policies do not capture the frequent business travelers.

Corporate policies must detail the company's procedures for tracking employee travel, including the nature of the traveler's activities and the time spent in each country, in order to assess risk and avoid both immigration and tax violations. In addition, policies must address the sources and internal charge backs of salary and expense payments, as this data is often scrutinized by immigration and tax authorities and is an important determining factor.

2. Collaborate among immigration, corporate travel and other departments

Responsibility for creating policy and properly managing this area must be aggregated among several functions of the company, including tax, immigration, legal, talent, mobility, human resources, benefits/compensation, and travel. The leaders of these departments, in addition to their outside service providers, and the frequent business travelers themselves, should all be involved in the development of comprehensive and well thought out policies. Failure to include all relevant parties will result in ineffective policies and failed implementation.

3. Use a comprehensive immigration management system

While this is not going to solve all of your company's problems with regard to business travelers, one of the most important first steps and tools that you can have is a system for tracking the initiation, approval and expiration of visas and work/residence permits. Your immigration law firm or provider should offer an advanced solution that provides full transparency for in-house immigration and mobility teams, with the ability to monitor all employees in the immigration or business travel process. They should be able to check the status of a visa or work permit case, and be able to verify vital information, such as the expiry date of the employee's work permit, business visa, or passport.

The best systems let your internal team initiate case requests with your immigration provider, and securely upload important supporting documents. They also provide real-time access to case status, with a summary of both completed and outstanding steps in the process workflow. Look for systems that provide fully configurable workflows and include automatically triggered update emails. Your system should also allow for customizable, real-time reporting on any of the hundreds of data fields that are collected during the immigration process.

Immigration is but one component in the web of business traveler compliance, so a good system will also provide access to your tax and relocation providers. If all stakeholders provide key input onto one system, your mobility managers will not have to duplicate efforts by checking multiple systems for the "whole story."

Ensure that the system keeps your immigration and related information intact, even if you switch providers. Look for a system that you can license directly, or insist that providers use non-proprietary technology. At a minimum, check the system's record for porting data tables, incorporating customizations and helping you retain the other fruits of your program-enhancement efforts over the years. Finally, make sure the terms of your service provider engagement include a provision that the data is always legally

yours, regardless of who pays for the system or enters the data. Ethics rules governing attorneys in the US support this point, but only if you are working with practicing US attorneys.

4. Include travel assessments and requirements tools on your intranet

It can be challenging enough to keep tabs on where, when and for how long employees are on the road, not to mention determining when business travelers are engaging in profitable activities that might trigger an immigration or tax concern. Employers should implement procedures to monitor employees' business travel and establish thresholds that trigger further analysis to assess compliance risks.

We recommend the use of tools that integrate with travel booking processes in order to help corporate travel and mobility teams determine, up front, whether the intended travel will subject the company to any immigration compliance exposure. The system should also include management reports that identify employees whose plans call for further analysis. Ideally, the technology should integrate with corporate time/billing and payroll systems that log employees' daily work locations.

To do this, your internal travel site, mobility site, or business travel initiation process (ideally as part of your immigration management system) must have a "two minute" way to solicit details about the intended travel, providing responsible parties with the ability to assess the reasons for business travel and amount of time spent in each country. Whichever approach works best for your company, we suggest that the following key data points be collected, and that a responsible party makes an informed assessment about:

- ✓ Number of days the employee expects to spend during this trip in the destination country;
- ✓ Number of days already spent in the destination country this calendar year;
- ✓ Total number of additional days expected to spend this calendar year in the destination country;
- ✓ Detailed description of intended activities in the destination country;

In addition, while no one person can possibly know all of the changing rules and procedures for entering or transiting through each country as a visitor, there are tools available that can. Up-to-date information is available free and online that allows an individual to input their nationality, country of residence, and destination country, and then provide up-to-date information on visa, passport, immunization and entry requirements.   This type of tool should be part of your overall compliance program, and made available on your intranet.

5. Enroll in "trusted traveler" and consular preference programs

The number of available trusted traveler programs that speed immigration and security processing has significantly increased.   Most frequent business travelers and senior executives will jump at these programs, which help avoid waiting in long airport lines and present a huge advantage: automatic proof on every trip that the US government has determined them to be a crime-free, safe traveler.

Aside from ensuring that your key travelers are equipped upfront with a presumption of credibility, programs like Global Entry offer: separate security lines – faster than frequent flier pre-flight lanes; elimination of the need to remove and scan shoes, jackets, belts, and computers (in most locations); and the bypassing of immigration/customs lines after international flights. Global Entry now works to fast-track travelers into Australia, Ireland, New Zealand, and the US, and other countries are expected to follow suit. Global Entry also has partnerships with other countries, such as Korea and the Netherlands, allowing U.S. citizens to apply for similar fast-track programs into their countries.

After an online application ($100 fee for five years) and a one-time interview, fingerprinting and photo session with officials, Global Entry participants are automatically granted" trusted traveler" status and can also take advantage of the TSA Pre-Check program which allows for expedited screening benefits during domestic travel at a growing number of major US airports (see http://www.globalentry.gov for more information).

It is also vitally important, in countries where your company has a large presence, to take advantage of available programs that help your company become better known to local government authorities and ease employee application processing. These can range from international Chamber of Commerce organizations, to local Consular and business organizations and, in many instances can help give your employees smoother passage through airports. While this is especially common in Asia, wherever your company has a presence you can work with your counsel to build local links and stay on the streamlined track.

To sum it up, these five steps can go a long way toward minimizing risk and demonstrating good faith in compliance, and some of them are simple enough to put in place immediately.

About Us

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