



Avoiding Trouble with International Agencies

By Rebecca Rosenzwaig, ORC Worldwide

Whether or not a company has a well-designed and proven policy for international assignments, it makes good business sense to periodically audit the policy and avoid potential exposure in terms of time, money and reputation. Here's a look at some of the key areas in need of monitoring.

Tax Trouble

Expatriates usually face complicated tax regulations at home and abroad, with most governments imposing tax on income attributed to working in that country (at sometimes high rates). Obligations for home country tax vary. Most countries don't require non-residents to report, or be taxed on, income earned outside the country, but many expatriates have continuing home country tax obligations from non-employment income, e.g., spousal income, investments. The United States is a rare example that requires citizens and permanent residents to be subject to U.S. tax on total income regardless of where that income is earned.

Company policy determines how the employer will treat income and subsequent tax, for example:

- Under "tax equalization," expatriates are responsible for income taxes comparable to what they would have paid at home. If the assignee's tax liability is higher, the employer reimburses the difference; if lower, the company keeps the savings.
- With a "tax protection" system, the organization accepts responsibility for income taxes that are higher, allowing windfalls to assignees transferred to lower-tax jurisdictions – and the potential for pay equity issues.

- "*Laissez faire*," or the employer's "hands off" policy, places the responsibility and consequences with the assignee for calculating and paying tax for both countries.

Under any tax treatment method, if local government enforcement is lax or knowledgeable experts are not involved – either in-house or external to the company – there is a danger of falling into bad habits that contravene official regulations, leaving expatriates and the company vulnerable to penalties and a bad reputation. In addition, the actual tax filing poses a problem if those responsible are unaware of the details, logistics, and legal intricacies involved in foreign tax returns.

Immigration Risks

Sending an employee overseas requires compliance with host immigration laws that govern visa categories, activity restrictions, pay delivery and documentation for expatriates and family members. Employers need to continually monitor the situation, particularly if the assignment is extended. Expatriates should also be aware of the potential for trouble if they travel without documentation or make false statements to an immigration officer (even if such statements seem harmless at the time). Such actions have the potential for heavy fines, expulsion and/or imprisonment.

Paperwork and Employment Law Dilemmas

The typical human resources function for an international work force has to manage voluminous paperwork and reports that include:

- Payroll data,
- Notional/shadow payroll amounts for home-country pension, social security and other benefits,
- Immigration records, and
- Letters of understanding/contracts.

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In addition, the termination of an expatriate raises other issues – and adds more paperwork. The advice of knowledgeable legal counsel on applicable laws in both the home and host country is essential, as well as the employment law of any country where the employee may have worked on a previous assignment. Matters that might arise include:

- Indemnity or unemployment payments,
- Registration with local labor courts,
- Data privacy, property issues and confidentiality,
- Time limits for which the employee can remain in the host country, and
- Benefit payments.

Another issue is the increasing use of “stealth” expatriates who move below the corporate radar on extended business trips or short-term assignments that have somehow lengthened. If unchecked, this practice may lead to a number of potential risks:

- Noncompliance with host immigration, tax laws, and social security agreements,
- Physical security risks in dangerous locations if the assignee’s whereabouts are unknown,
- Potential taxation of company income if the local government considers the company to have created an “establishment,” and
- A tarnished corporate image and reputation.

One final area of concern is the existence of individual “deals” designed to keep expatriates happy. Special cases can lead to inequity, inconsistency, financial waste and administrative confusion – and so should be kept to an absolute minimum.

Keep a Sharp Lookout

When reviewing the assignment process through all stages, engage experts in immigration, employment law and expatriate tax. These individuals can be part of an internal audit by experienced HR staff or by a vendor/service provider. Either way, the process can help you avoid significant trouble down the road.

About the Author



Rebecca Rosenzwaig, a director in ORC Worldwide’s International Compensation Services practice, is responsible for assisting multinationals in developing, implementing, and enhancing international assignment programs. She is also responsible for developing a core team of ORC consultants and client service staff. Recent projects with ORC have included: benchmarking and a review of global hiring strategies for an international consulting firm; comprehensive benchmarking and development of long- and short-term policies for various organizations; global compensation consulting for an international logistics company in the planning of international assignments and cost-of-living differentials for local hiring strategies in different countries. She has a B.S. in Accounting from Binghamton University in New York and has studied at the University of Copenhagen in Denmark and Trier University in Germany. She is a New York state licensed CPA.

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