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MOBILITY®

Top 3 Risks
FOR GLOBAL COMPLIANCE

With an increasing number of compliance challenges facing global mobility professionals today, this white paper focuses on the top three areas of global compliance risk: immigration, tax, and international business travelers. To address ever-changing requirements and regulations, NuCompass Mobility provides guidance on the education, training, and technology options necessary to successfully achieve compliance.

If you are like most global mobility professionals, you are being asked to manage employees who are traveling around the globe to multiple countries, and staying for different durations. These employees are performing a variety of work tasks in different countries. To make it even more complicated, you don't have one single tool to monitor locations or track activities to know where people are.

All of these factors may have diverse implications in terms of meeting immigration and tax requirements, and there are many complex issues and risks that companies face in seeking to achieve compliance.

IMMIGRATION

A fact of immigration compliance is dealing with varying country-specific regulations. Often, the immigration process is perceived as cumbersome, outdated, and not very clear. The global immigration process has been steadily evolving and is becoming more efficient in many locations.

At the same time, the requirements and regulations are ever-changing, and that makes it more difficult to achieve – and maintain – compliance. Governmental changes include an increased focus on not only the duration of the stay, but also the type of work being performed in the country. For example, when an employee is going to a location for training purposes, the requirements can be as detailed as specifying whether the employee is conducting the training or receiving it.

Many governments are diligently working to improve their use of technology to track people entering their countries. Cross-border travelers can now be more readily tracked and identified. Education, training, and technology are three key elements to tackling and solving this challenge.

There is a need to educate the traveler or assignee and the business to avoid a situation where an employee is denied entry or detained.

METHODS TO DELIVER EDUCATION INCLUDE:

- Leverage the company intranet

- Partner with your immigration provider, tax provider, and travel department to develop guidelines

- Devise a process for completing an immigration assessment and require it to be followed

- Provide high-level information designed to alert travelers and provide expert assistance

- Complete assessments to identify compliance concerns, rather than risk noncompliance and the resulting penalties

Training tactics for immigration compliance include communicating regularly with internal customers, publishing notifications of changes in regulations and internal processes, and offering updates regularly to address questions and specific cases.

There is a variety of technology tools available to accomplish pre-travel visa assessments to support determining whether a visa is required, what type, and how to start the process. Many immigration firms offer assessment processes or online tools, which provide capabilities to evaluate the nationality of the traveler, the intended destination and duration of travel, and the type of work planned.

Technology tools vary based on functionality, pricing, level of expertise embedded in the tool, level of help desk support for the tool, and the ability to integrate with existing tools. It's important to assess capabilities, function, and the degree of integration you require, and understand the level of support offered, in order to choose the right solution for your organization.

TAX

In the mobility world, we tend to think about tax in the context of long-term assignees, tax equalization, and the associated high costs. Tax compliance can also be a consideration for short-term assignments, cross-border commuters, and frequent international business travelers.

Country-specific regulations are a reality. Governments are working to better achieve cross-referencing of their immigration and tax records to ensure that those who visit are also compliant with tax regulations. In addition to the individual employee's tax risk, there are also issues of corporate tax liability. The presence of an employee and the work they are doing can result in corporate tax liabilities – new or increased. If there is not an existing company entity in the country, there is the risk of creating Permanent Establishment, resulting in tax liability.

An added factor is that the current global economic conditions are heightening the focus on tax revenue collection. Governments are conducting audits, and investigations are more frequent, more thorough, and more widespread.

THE FIRST OPPORTUNITY FOR IMPROVED COMPLIANCE IS EDUCATION FOR THE BUSINESS AND THE EMPLOYEE.

Connecting travel and immigration processes to a tax assessment is a recommended strategy to ensure that risks are identified and addressed BEFORE tax liability is accidentally triggered. Leverage the company intranet and service partners, including the mobility provider, immigration, and tax partners, to collect and disseminate critical information and facilitate assessments.

Be sure to educate about the need for reassessment when there is a change of intent or duration. A business traveler can easily become a short term assignee because of an extension. Varying regulations addressing duration of stay – and defining the evaluation period differently – make it important to have expertise available when reassessment is needed. Some countries consider consecutive days in-country, and others look at cumulative time in-country. Some evaluate based on a calendar year, others look at a rolling 12-month period, crossing over calendar years. Days in-country also often include time spent not working – for example, extra days for sightseeing.

Look for technology tools, from tax providers and other sources, that support tracking duration and provide alerts when a risk is imminent. Some are self-service and others more automated.

Overall, the majority of companies are proficient at tracking Long-term Assignments (LTAs) and achieving tax compliance. LTAs are costly, and as a result they tend to receive a lot of attention upfront, with tax planning and consultation being a standard step in the process. But unless they have a robust population, many companies tend to be somewhat less effective at tracking Short-term Assignments, particularly in tracking of the original duration planned and then extensions, and determining the implications of extension decisions.

INTERNATIONAL BUSINESS TRAVELERS

BASED ON INDUSTRY DATA, COMPANIES TEND TO STRUGGLE MOST WITH INTERNATIONAL BUSINESS TRAVELERS (IBTS). IBTS ARE ARGUABLY THE BIGGEST AREA OF NONCOMPLIANCE RISK FOR BUSINESSES FOR THE FOLLOWING REASONS:

- Frequent, short-notice travel

- Lack of visibility

- Improving government technology tools to identify frequent travelers

- Ever-changing regulations

Ignorance of the law is usually not a viable defense. As with our two prior areas of focus, there is the issue of lack of knowledge, understanding, and education, both within the business and for the individual employee. Global mobility professionals are increasingly being asked to participate in solving issues resulting from IBTs – whether it's helping with a case where someone is being detained at a point of entry or assisting in untangling a tax puzzle.

To prevent the extreme situation – that invariably occurs in the middle of the night, no matter where the global mobility team resides – education is first on the list. Know your company's frequent travel destinations. Work with your team to develop tips and tools, and make the information readily available to all employees. Develop "cheat sheets" for the types of work tasks that will create an immigration or tax risk. These are manual tools that you may want to use on an interim basis and to help you define your needs.

Technology can also be very valuable. There is a variety of methods to track where people are spending time. Tools include GPS apps on smartphones, calendar applications that provide a platform for an employee to enter where they were and what they were doing – working or not – and programs that integrate with company travel booking records to perform analysis and trigger alerts.

Some companies use their existing timekeeping systems, which are used to track client billable time. Added functionality requires employees to enter *where* they worked – meaning country or city location. Reports are available to allow the global mobility team to analyze the data and determine cases where the employee is not a "known" assignee and additional investigation is indicated.
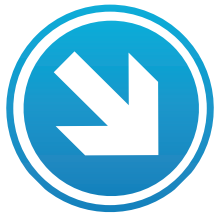
Some employers have started requiring visa assessments prior to any international travel booking. They use technology tools that support the assessment, with a final step of either producing a travel authorization code, which is required to book travel, or delivering the assessment to an expert immigration resource.

Others require the employee to attest that they have participated in an assessment as part of the travel booking, including a statement of employee responsibility and acknowledgement that there are compliance requirements.

As with each aspect of compliance, the company needs to understand its existing internal capabilities and the resources and tools it already has, and assess how best to integrate additional partners or tools to achieve improved compliance.

THE FIRST STEP IS TO START WITH THE DATA, ALTHOUGH IT'S NOT ALWAYS EASY TO OBTAIN.

Require your travel provider to support data collection regarding international travel bookings. Identify at-risk travelers, locations, or patterns. Rely on your immigration and tax resources for guidance on locations to focus on first, whether due to volume of activity, type of work that triggers risk, or degrees of penalties that could be incurred.

Identify reasonable thresholds that indicate the need for further investigation. Don't try to tackle every traveler who spent more than five days in every location at first. Look for durations over a certain period, high-volume destinations, and job duties that are specific areas of focus for that location.

The travel data is the starting point. Knowing where people are and when they are coming and going is essential. And the next step is to know the number of days working vs. not working and what work they were doing.

Regardless of whether you are managing this process for the first time and starting from scratch, or handling your 50th, 500th, or even 5,000th opportunity, focus on understanding where you are on the compliance scale. Recognize that it won't happen in one step; it is important to demonstrate intent and implement steps to improve compliance.

SUMMARY

Successful strategies for achieving compliance include education and leveraging technology. Education is clearly a positive action. A caution is to not assume knowledge. The fact that someone is located in a country, working, and living there, does not make them an expert on that country. There are many technology tools available and the price, function, and ability to integrate with existing processes and systems varies. Some rely on the employee to capture details and others are more automated and collect data from various sources.

There is no single tool that provides the magic compliance solution for every company. Each organization has different needs and different existing tools and resources. The key is to know what you have and what you need, and determine the best tools or partners to meet your needs.

The final strategy is building a team. You need a partnership. Compliance is complex and you can't do it alone. The issue is not whether your team is internal or external, or some combination. The key is to identify the expertise you don't have – immigration, tax, travel, data analysis, or mobility services – and assemble the right talent to achieve the desired outcome.

Next, ensure a clear definition of roles and responsibilities. Don't look at just "who owns tax returns," but examine the details – Who is responsible for communicating tax settlements? Who processes the payment or pursues collection? Is the responsibility with the company, the tax provider, or the mobility management provider?

The keys to success are trust and collaboration. This can be accomplished when roles are clearly defined, and there are no hidden issues over turf or expertise.

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