



Human Capital Management
& Payroll Software/Services

Working Remotely Abroad: A Guide for Australian Employers

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These days, employees often see themselves as global citizens, so it's not uncommon for employees to seek flexibility in their work arrangements, including working from abroad for short periods. For an Australian business, accommodating such a request can demonstrate a commitment to employee well-being and adaptability. However, this decision involves navigating a complex legal landscape and practical considerations. This article outlines the key factors Australian businesses should consider when an employee requests to complete their regular work temporarily from overseas.

Potential Reasons for Requesting to Work Overseas

- Employees might request to work from overseas for various personal reasons, including:
- Supporting an ill family member: Providing care and support for family who is seriously ill.
- Family emergencies: Attending to unexpected family emergencies that require their presence.
- Family events: Weddings, births, adoptions, etc.
- Parental support: Assisting elderly parents or relatives who need temporary support.
- Spousal relocation: Accompanying a spouse or partner temporarily relocated for work.
- Personal health issues: Seeking specialised medical treatment or recovery in another country.

Legal Considerations

1. Employment Law Compliance

Even though your employee remains employed by your company, their presence in a foreign country may subject them to local employment laws. These include regulations on working hours, health and safety standards, and employment rights. Employers must investigate potential liabilities to ensure compliance with Australian employment laws and the relevant laws of the host country.

For example, an employee working remotely from Germany might be subject to German labour laws, which could affect working conditions and employee rights (Harvard Business Review, 2020). Consulting with legal experts familiar with the host country's regulations can help navigate these complexities. Additionally, it's important to consider that some countries may have strict rules regarding employment contracts and employee protections, which could have implications even if the employee is only temporarily based there.

2. Tax Implications

Taxation is a critical area of concern. The employer and employee must be aware of the tax obligations in the host country and Australia. Double taxation agreements (DTAs) between Australia and other countries can sometimes mitigate the risk of being taxed twice on the same income (Australian Taxation Office, 2021). However, these agreements are complex, and professional tax advice is essential.

For example, if an Australian employee works remotely from the United States, they might need to file tax returns in both countries, depending on the duration and nature of their stay (Australian Taxation Office, 2021). Employers should also be aware that their business might be seen as having a permanent establishment in the host country, which could have further tax implications.

3. Immigration and Work Permits

Before an employee can work overseas, verifying their right to stay in the host country is crucial. Although they are not seeking employment in the local market, they might still need a visa that allows them to stay for an extended period. The requirements for these permits vary widely and can be stringent. For instance, a Schengen visa allows stays of up to 90 days in the EU, but longer stays might require different permits (European Commission, 2021).

Employers should ensure that the employee understands the immigration requirements and complies with them to avoid legal issues. Overstaying a visa can result in penalties or bans on future travel to the host country.

4. Social Security and Retirement Contributions

When an employee works abroad, social security contributions can become complicated. While Australia does not have a direct equivalent to social security contributions, as seen in countries like the United States, it does have a superannuation system. Additionally, some countries require contributions to their social security systems, which may include retirement, disability, and unemployment benefits. For instance, the United States has Federal Insurance Contributions Act (FICA) taxes, which fund Social Security and Medicare.

Social security agreements between countries can sometimes alleviate this burden, ensuring that contributions made in one country are recognised by the other, thereby preventing double contributions. It's essential to confirm the specifics of each situation (Australian Government, 2020).

5. Legal Risks and Liability

Employers must also consider potential legal risks and liability issues that might arise while the employee is working overseas. For instance, determining liability and applicable laws can be complex if an employee is involved in an accident while working remotely. Clear policies and procedures should be in place to manage these risks effectively.

Practical Considerations

1. Technology and Communication

Ensuring that the employee has access to the necessary technology and communication tools is paramount. Reliable internet access, secure communication channels, and the ability to access company systems remotely are all essential for maintaining productivity. Companies should also consider time zone differences affecting communication and workflow.

Employers might need to provide additional equipment or software to ensure seamless connectivity and security. Regular check-ins and virtual meetings can help maintain a sense of team cohesion and ensure the remote employee remains engaged and productive.

2. Data Security

Working from overseas can pose significant data security risks. Businesses must ensure that all data accessed and transmitted by the employee is secure. This might involve using virtual private networks (VPNs), encrypted communication channels, and secure cloud services. Additionally, employees should be trained on best practices for data security to prevent breaches (Cybersecurity Guide, 2020).

Companies should also be aware of the host country's data protection and sovereignty laws, which might differ from Australian regulations. Ensuring compliance with these laws is crucial to avoid legal issues and to protect sensitive information.

Many organisations make it a strict rule that employees from other geographies may only conduct their regular work overseas if they physically attend or securely log into company premises or networks in that country.

3. Insurance Coverage

The employee's health and safety while working overseas are also vital considerations. Standard health insurance policies may not cover incidents that occur abroad. Employers should review their insurance policies to ensure their employees are adequately covered while working overseas and consider additional coverage if necessary (Insurance Council of Australia, 2021).

Employers must understand that Workers' Compensation insurance may not cover incidents that occur while an employee works overseas. This can expose the employee and employer to significant financial risk if an injury or illness occurs. Ensuring that the company's insurance policies are adequate for international work is crucial. This might involve purchasing additional travel or health insurance to cover the employee while they are abroad.

4. Maintaining Company Culture

Maintaining a cohesive company culture can be challenging when employees work remotely, especially when working overseas. Employers should endeavour to include remote employees in company activities and events, even if they do so virtually. Regular communication and team-building exercises can help remote employees feel connected to the company.

Conclusion

Allowing an employee to work overseas temporarily due to family issues can be a positive move for both the employee and the business. However, careful consideration of legal, tax, and practical issues is required to ensure compliance and maintain productivity. By addressing these considerations comprehensively, Australian businesses can create flexible work arrangements that meet the needs of their employees while safeguarding their operations.

References

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Michael Howard, Founder