



Cross-border challenges: legal, tax, and agile solutions for NGOs

Wednesday 16th October

This event will begin shortly





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Cross-border challenges Employment tax considerations

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Initial thoughts where employees are working in another country

What do NGOs need to think about?

Understand what the regulatory requirements are in the proposed destination

Recruiting locally versus secondments

Payroll reporting

- Income tax
- Social security contributions

Employer of record

Will the employee create a permanent establishment in the host country?

We are thinking about a secondment programme

- What is the proposed period of secondment:
 - Short-term – less than 183 days including holiday extensions
 - Medium term – up to three years
 - Long-term – Three years plus
- What support will be provided to a secondee during their secondment period?
 - No enhancements, especially for holiday extensions
 - Enhanced subsistence and financial support
 - Tax equalized
 - Tax protected



Income tax

The background of the slide features a dark purple overlay on a photograph of a desk. On the desk, there is a laptop with a bar chart on its screen, a calculator, several sheets of paper with charts and documents, and a hand typing on the laptop keyboard.

Consider local income tax regulations

In some cases, income tax will be paid directly to the local tax authority by the employee

Where a permanent establishment is created – assume a local payroll will be required

Consider the host country's tax rules

- France – tax relief on the payment of social security contributions
- Dutch - 30% tax relief for highly skilled migrants
- India – Fringe benefits regime – rests with the employer

Do any specific benefits need to be provided?



Tax equalisation

- In simple terms, the employee pays no more or no less tax on assignment than they would have paid had they stayed at home.
- The NGO will be responsible for paying all actual taxes in the home and host country on behalf of the employee.
- The employee's contribution is referred to as hypothetical tax which is equal to the amount of tax they would have paid had they not gone on assignment.
- The hypothetical tax is deducted from the notional home salary in the calculation of the assignment salary.

Advantages and disadvantages of tax equalisation

Advantages	Disadvantages
Makes the assignment tax neutral for the assignee	Can be expensive to administer
No financial surprises for the assignee	Onus rests with the NGO to be compliant
Helps to establish a sound management structure	Potential assignee resistance unless the policy is well explained
Potential savings for the employer where assignments to low	Additional costs for the employer where the assignment is to a higher tax regime country

Tax protection



- Another approach is where the employee pays the lower level of tax in the home or host country
- Unlike tax equalisation the employee is responsible for paying all the actual taxes due
- If the tax due in the host country is higher, then the employer reimburses the employee for the additional tax due

Advantages and disadvantages of tax protection

Advantages	Disadvantages
Assignee can benefit from lower tax rates, an incentive to undertake the assignment	May impede employee mobility to higher tax countries
No financial surprises for the employee	No opportunity for the employer to benefit from savings as the employee will retain the 'tax windfall'
	Employee may experience some cash-flow challenges. Often this is mitigated via employer loans
	Potential compliance risks as the employee may under-declare their taxable income

Social security considerations

Basic rule – Social security is payable where the employee is habitually resident.

Three categories of country for Social Security purposes:

EU/EEA Countries	Reciprocal agreement countries- examples include USA, Canada, South Korea, Japan, Israel but <u>not</u> Australia	Rest of the World (RoW)
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Common practice for secondees to EU and Reciprocal agreement countries to remain in their home country social security system.

Where an individual is sent to work in a RoW country, they will remain liable to UK NIC for the first 52 weeks of their secondment period, but they may be liable to local social taxes (superannuation fund payments or medicare style arrangements).



Tax and social security rates

Country	Tax (highest rate)	Social Security Employers (highest rate)	Social Security Employees (highest rate)
UK	45%	13.8%	8% (2%)
France	45%	45%	23%
Netherlands	49.5%	23.19%	27.65%
USA	37%	7.65%	7.65%
Ireland	40%	7.6%	4%
Japan	55.95%	16.24%	15.28%

Permanent establishment


- A permanent establishment can inadvertently be created where the employee has:
 - By their presence created a fixed place of business
 - A sales or development role
 - They are in a position to enter into contracts on behalf of the employer
- Where a permanent establishment is created, the profits attributed to the overseas work will be subject to corporation tax in the host country.

Questions



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Supporting Cross-Border and Remote Working for NGOs

Overcoming Challenges and Embracing Decolonization

Why Cross-Border Working is Critical

- Increasing reliance on global teams and remote work.
- Essential for NGOs working across regions with diverse needs.
- Importance in the context of decolonization and shifting power dynamics.

Importance of Cross-Border Working in the Decolonisation Narrative

- Decentralisation of power: Shifting decision-making to local leaders.
- Equitable partnerships: Reducing reliance on Global North leadership.
- Local expertise: Recognizing and valuing knowledge of communities served.

Challenges in Cross-Border Working

- Time zone differences: Difficult to schedule meetings.
- -Legal and compliance issues: Differing labour laws, tax regulations.
- Cultural difference: Variations in work styles and communication.
- Resource gaps: Uneven access to technology and internet infrastructure.

Top Tip 1: Invest in infrastructure and communication

- IT infrastructure: Reliable internet and cloud-based solutions.
- Cybersecurity and data protection.
- Access to essential tools (project management, communications).
- Use reliable communication tools (Slack, Teams, Zoom)
- Set expectations about the level of communication/software use required.
- Schedule regular meetings for cross-border teams. Implement flexible working hours and rotate meeting times to ensure wider participation.
- Over-communicate to maintain clarity and alignment.

Top Tip 2: Navigate Local Regulations and Compliance

- Understand tax and labour laws for remote employees.
- Partner with local legal experts or use HR platforms.
- Make use of PEOs if needed
- Stay updated on cross-border employment regulations.
- Standardize contracts where possible but adapt benefits to local contexts.

Top Tip 3: Cultural Awareness and Inclusivity

- Provide cultural awareness workshops/'brown bag' lunches.
- Foster an inclusive communication strategy.
- Encourage sensitivity to local work practices and customs (holidays, work styles, time zones)
- Ensure cultural sensitivity is established in decision making teams.

Top Tip 4: Building Trust and Accountability Across Borders

- Focus on outcomes, not hours worked.
- Stop overcommunicating ‘micro-movements’
- Encourage autonomy and goal-setting at the team level.
- Set clear KPIs and accountability systems.
- Use digital project management tools for transparency in bigger projects.

Top Tip 5: Ensure you Support Wellbeing in Remote Teams

- Provide flexibility to accommodate personal schedules.
- Offer mental health resources and promote wellness.
- Encourage the use of sick days per organisational policy.
- Encourage a healthy work-life balance, especially in regions with weaker remote work infrastructure.

Questions?

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BOND – Cross Border Challenges

A dark blue rectangular box containing the speaker's name and title.

Andrew Studd – Partner – Charity and Social Business Team

Operating Across Borders

How to structure overseas relationships

- Who is delivering “on the ground”
 - UK charity controlled legal entity in country
 - UK charity operating in country via a “branch”
 - Some other sort of partner organisation?
- Local laws
 - Registration/licence requirements
 - Tax implications
 - Ability to exercise control
 - Fund flows and accountability to regulators, funders, trustees

Subsidiary

- Limited liability
- Governance and Control
 - Local laws
 - Power to appoint directors
 - Who should those directors be?
- Initial funding arrangements
- Ongoing funding and accountability to funders
- Local laws

Branch

- UK charity operates on the ground
 - No separation and direct liability
 - Oversight by UK trustees?
- Registration obligations and compliance with local laws
- Power to employ staff, secondment or employer of record

Partner organisation

- What is the nature of the relationship?
 - Contractual
 - Ability to enforce locally
 - Intellectual property licence, right to use name and branding of UK charity together with mutual obligations around reporting and compliance
 - Funding Agreement – accountability to donors
 - Reputation management – ie safeguarding, security etc

Other issues

- Agreements
 - Subject to local or English law?
 - Enforceability
 - “back to back” with funders obligations?
 - Other provisions....
- Data protection
- Reporting requirements
- Safeguarding
- Corruption?



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HelpAge's Journey

- In 2021 HelpAge embarked on a number of strategic shifts as part of a committing to localization and partner-led programming
- Shift to a Global Team
- Transition of country programmes to locally-led entities
- Partner-led programming



Global Team - benefits



- Access to global talent
- Cross-organisation info sharing (team vs regional)
- Diversity and perspectives
- 24-hour operation (pros and cons!)
- Scalability and resilience
- Closer to our partners

Global Team - Challenges

- Onboarding and organisation culture
- Remote work and carbon budget
- Embedded dominance of English
- Clustering in some dominant cities
- Cost of EORs and effort providing equipment
- Duty of care complexities – partner hosting
- Closing entities – a lot of work



Some lessons and tips



- Budget for unseen costs and get advice
- Plan for a lot of time needed to manage the process – in HR, Ops, Leadership
- Tech solutions – Wordly, comms channels, dashboards
- But have to keep a **real focus** on the people-side

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