

Business traveler's tax

presented by

Tatyana Kovalchuk, Partner, Ernst & Young



Defining a business traveler

An employee who travels outside his or her home country for business and who is not on a formal assignment or transfer



Are you at risk?

- Deal teams around acquisitions
- New market entry
- New product launches (sales/ marketing/ training)
- Group functions, e.g. internal audit or legal
- SWAT teams (IT, maintenance)



Risks inherent with business travelers

- Many different factors to consider
- Some are risks to the individuals
- Most are risks to the organization



Business implications of the identified risks

- May not be able to do business in that country
- May not be able to bid or receive a government contract
- May not be able to get the traveler in (or out) of that country
- Brand may be damaged



Why are authorities increasingly focusing on business travelers?

- The global economic climate
- Increased sensitivity about protecting domestic labor market
- Governments want to increase revenue
 - From employers: unforeseen triggering of a permanent establishment
 - From individuals: may be obliged to file/ remit taxes in multiple jurisdictions
- Business travelers present an untapped source of revenue
- Because they can!



What has changed?

- The 183 day rule can no longer be relied on
 - Domestic regulations don't follow the 183 days rule – it's a treaty concept
 - Not all countries have signed income tax treaties
 - “Legal” versus “economic” employer concept under the treaties – no treaty definition; different interpretations by different countries
 - Tax authorities are changing definitions of Permanent Establishment
- Tax return filing, employer withholding and reporting obligations may still exist even if employee is exempt from income tax in a host location

What has changed?

- Advanced border technology
 - Immigration and tax authorities are sharing information
 - Countries are sharing information to scrutinize immigration and tax status
 - Authorities are using more sophisticated tracking and reporting systems to collect the information
 - By conducting analysis authorities are linking corporate deduction to individual filings
- Organizations have access to better information
 - Data can be shared more readily from travel providers, expense reporting, inter-organization departments, and payroll audits
- Costly remediation



Consequences

The consequences of not managing risks created by business travelers are severe:

- Fines
- Deportation of employees
- Damage to business reputation
- Lost business opportunities



Short term business travelers

The global consequences are real – companies are paying the price

UK

Company pays £40m + in back taxes and penalties for failure to accurately report home paid income in the UK

Of 407 immigration investigations in the UK, 72% resulted in prosecution and criminal sanctions, of which 46% included jail sentences of 7-12 months

Germany

SEC enquiry into related matter uncovers internal control breakdown requiring multinational company to re-state previously published financial statements by €100m to correctly report employer paid tax expense

China

Manufacturer subjected to largest payroll audit ever in China resulting in the requirement for payment of \$25m in back taxes and \$8m in penalties

USA

\$20m assessed in under-withheld taxes, penalties and interest for domestic short term business travelers.

France

Increasingly aggressive social security authorities led a raid and criminal investigation on multinational company resulting in \$8m assessment of back social security tax and penalties, even though the company had an agreement with another EU country to protect its position in France

India

European multinational assessed €5m in penalties for failing to report full home paid compensation for employees assigned to work in India. Indian authorities then opened full 3-year investigation resulting in additional professional fees of over €1m to respond

Japan

Global financial services company had their entire foreign retirement plan retroactively disqualified for Japanese tax purposes requiring payment of back tax of \$8m and \$1m in penalties

Brazil

Company unable to collect \$1m in employee debt by not being able to enforce loan agreements not written in the local language

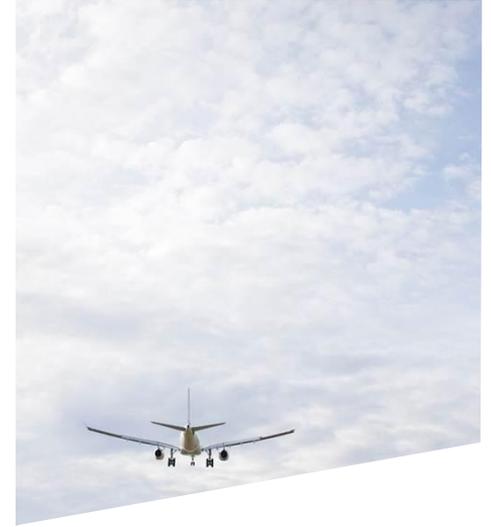
What are we seeing in the marketplace?

Organizations are beginning to take action through a variety of methods:

- Beginning to review the issue
- Highlighting the issue to executives
- Establishing business traveler policies
- Systems are being put in place to track travelers
- Automation vs. manual and internal vs. external
- Establishing certain thresholds
- Quantifying risks
- Establishing accruals
- Reviewing the need for remediation

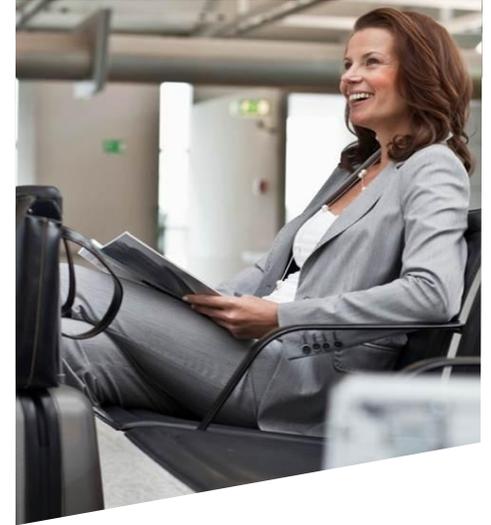
What are biggest hurdles?

- Who owns this problem/risk?
- Discuss risk/reward or cost/benefit
- Explore the ownership between human resources/travel/operations, etc.
- Privacy issues/changes in policy



How can you tackle the business traveler issue?

- Gain sponsorship of key executives
- Identify an owner
- Develop a plan
 - Create a cross-functional team
 - Identify and tracking of individuals
 - Assess risk and business implications
 - Apply appropriate tolerance levels
 - Establish controls, policy, processes and level of automation
- Educate all stakeholders
- Be proactive and communicate





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