

China Tax Alert

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Is your people relocation strategy robust enough to combat the Coronavirus?

Matters discussed in this Alert:

- Issues and considerations in response to the outbreak of CoronaVirus from a mobility perspective

The outbreak of 2019-nCoV epidemic is unprecedentedly altering our way of life and our work arrangements. Companies with global presence and individuals operating across borders need to be increasingly aware of relevant risks associated with the new agile work arrangements. Awareness is vital to minimise disruptions to operations and to manage associated risks and costs.

As a precautionary measure, many MNCs are now evaluating whether it is necessary to repatriate expatriates from mainland China and suspending business travel arrangements. These actions follow the Chinese government announcement on extending the Lunar New Year holiday, and other countries implementing new border measures to restrict incoming travellers from China.

When reviewing repatriation or remote working plans, businesses should take into consideration the potential immigration and tax compliance requirements triggered by such relocations.

Many of the tax issues could be “worked out later”, the cost of doing so could be significant. There, however, are some critical items that need to be dealt with before a move. Considering those critical issues in advance, and formulated policies and contingency plans, will allow a quicker response to the needs of the business and the individuals as those needs arise.

The most pressing need is immigration and establishing whether the individual will have the right to work when they arrive at their destination. If this is their home jurisdiction, it should be straight forward; if it is a different location, it may not be simple, or quick. In these cases, lack of planning may result in a significant period when the employee cannot work and needs to be stood down on leave.

This alert provides an overview of the critical tax and immigration matters that need to be considered when allowing, or requiring, relocation or remote working arrangements in response to the current challenges.

Immigration considerations

Prior to initiating a move, in order to assess the appropriate visa to be obtained and ongoing compliance requirements for the employee, immigration requirements in the new jurisdiction need to be reviewed in conjunction with the employee's

- Personal status (e.g. nationality, valid visas in possession)
- Nature of activities to be carried out in the jurisdiction
- Intended period of stay
- Whether family will accompany

Furthermore, in view of new border controls which are being implemented, in varying degrees by over 90 countries, to monitor and restrict travelers from China, businesses should also review details of these measures to ensure employees that have been identified for relocation will be able to enter the respective destination country.

Tax considerations

Businesses that are considering relocating employees from mainland China to work in a different jurisdiction permanently or remotely in the interim period, should consider both personal and corporate tax implications of each arrangement and quantify associated cost to employees and business ahead of initiating the move.

Personal tax considerations

An individual is likely to trigger a tax liability in the jurisdiction in which they are working, even if it is not their home or primary work location. Exemption may be available by virtue of domestic concessional rules in that jurisdiction or application of double tax treaty where applicable. Often these exemptions will depend on matters such as the duration of the stay, and where the costs are borne.

If tax liability is triggered in a jurisdiction, individuals and their employers may be subject to tax reporting and withholding obligations according to local practices in that jurisdiction.

Employers need to consider whether any additional tax cost will be borne by the company or the individual. Consideration may need to be given to the reason that the specific location was chosen – was it driven by business needs, or from personal preference.

Furthermore, ongoing personal tax and employer withholding obligations in China may continue if the move is temporary, and double taxation may arise where move to the other jurisdiction is extended and employment arrangement is not updated timely.

Returning an expatriate to their home jurisdiction may be easiest from an immigration perspective, but could also have implications for the individual's tax residence. For example, if an employee left their home country relatively recently, their return may mean that tax residence is not considered to have been broken, creating a tax exposure back to their original departure.

Corporate tax considerations

An individual carrying out certain activities in a jurisdiction may trigger tax obligations for his or her employer.

A presence in a location, depending on its duration and the activities undertaken, may trigger a corporate tax liability, business registration or registration for other taxes, such as VAT/GST. Tax relief may be available if a double tax treaty applies.

Next step

We urge businesses to consider the above factors as part of its business continuance planning, and KPMG will be pleased to assist with:

- Preparation of pre-assessment checklist
- Evaluation of relocation arrangement and assist with formulating cost-effective relocation strategy
- Cost projection of proposed relocation strategy
- Immigration planning and assistance with applications
- Employee communications and briefings
- Destination tax and immigration compliance services (initial and ongoing)

An aerial photograph of a coastal road running parallel to a rocky shoreline. The water is a deep teal color, and the road is a dark asphalt surface with white dashed lines. The surrounding land is a mix of green vegetation and exposed rock.

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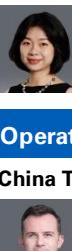
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