

Expatriates Travelling for Christmas

Some Additional Considerations

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2020 has been a year of challenge, resilience, and change. The question for the year ahead is whether employers will benefit from the changes forced on them, or revert to old habits.

Remote work over Christmas

Travel restrictions and additional requirements are likely to make visiting family more difficult this Christmas.

It will be important to plan ahead and check any travel restrictions, and quarantine or additional administrative requirements.

Employers need to consider the extent to which they can accommodate employees seeking flexible work arrangements to facilitate their travel.

A long and challenging year is drawing to a close, some travel restrictions are easing and people are considering their options for Christmas holidays or visits home. But travel is still not easy. Those willing, needing or wanting to travel may face limited flights and quarantine requirements consuming both annual leave and holiday time.

Even where travel is opening up, there are often additional requirements or changes of plan in response to fluctuation of COVID-19 situation. For example, Hong Kong has announced relaxation of some quarantine requirements to facilitate travel between Singapore (i.e. bilateral Air Travel Bubbles arrangement) and Guangdong/Macau (i.e. "Return2hk scheme"). But the trade-offs include the need to have a within 72-hours pre-departure COVID test or on-arrival COVID test or both, and bearing the risk of disruption to travel schedule (e.g. sudden suspension or tightening of travel facilitation schemes). The deferral of the Hong Kong-Singapore arrangement also illustrates the current uncertainty and risk of travel disruption.

Failure to do so may mean the two-week quarantine will still need to be observed – currently, not even at home. Don't let an administrative oversight disrupt your travel plans, and, in this fluid environment, make sure you have a contingency plan if restrictions or arrangements change while you are travelling.

As a consequence of these challenges, employers are fielding requests (in some cases hundreds of such requests) to work from overseas locations so employees can extend their travel plans while managing their annual leave. In turn, employers are confronted with the dilemma of issuing a blanket denial of such requests, or handling case-by-case consideration of the implications of overseas remote work.

The implications are potentially broad and varied. These include matters such as immigration, personal tax, employer reporting obligations and the potential to create a corporate tax exposure. The longer the visit the greater the risk, so there is an important distinction between short trips and on-going arrangements.

Regardless of duration, consideration should also be given to matters such as an employer's duty of care, occupational health and safety requirements, data and IT security, and legal risk.

These risks may seem insurmountable at first glance. To help, we recommend having some basic policies and guidelines in place as a way to triage requests. This will let employers that wish to allow greater flexibility to manage down the number of requests that need to be considered and managed case-by-case.

Managing visa renewals

Another issue that potentially impacts expatriates during this period of travel restrictions, and should be considered as we approach Christmas, is managing visa and work permit renewals.

The Hong Kong Immigration Department visa services were suspended or prolonged during the “special work arrangement” periods in 2020. We should be prepared for “special work arrangements” becoming a recurring control from the Hong Kong Government for continuing to combat COVID-19 if further waves of outbreak occur. The impact on visa services should be closely monitored. So far, there have been changes in both approach and processing times.

In some cases, document submission is required within a tighter window than previously, or longer processing times are experienced. For example, prior to COVID-19, work and dependent visa renewals were typically be completed on the same day and could be submitted in advance. These must now be submitted only four weeks before their expiry and are available to collect two to three weeks later. Therefore, expats and HR teams need to pay close attention to the processing times for visa applications and renewals, and ensure submission and collection are planned around leave arrangements.

If employees are currently located outside Hong Kong, and particularly if this was unplanned and happened due to COVID, or if employees are planning to travel out of Hong Kong over Christmas, be sure to check the validity and expiry dates of visas and work permits. In particular, be wary of visas that expire during or shortly after travel out of Hong Kong. As last-minute flight cancellations and border closures are now common, it is important to avoid cutting too close to renewal dates. If a Hong Kong visa expires while overseas, there are limited options for renewal or extension – and a fresh application might be needed.

Employers should make sure employee visas are being tracked, early alerts are given, and the timeline for action is communicated in advance to ensure you don't have employees holidaying or working from overseas when their visa expires. Otherwise, you might find their overseas visit needs to be extended while they reapply for their visa.



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