Beware of the taxman – Are your business travellers liable for tax?

Business travellers may need to pay taxes in foreign countries they visit for as little as one day. How can your company keep itself compliant with international fiscal and visa/immigration obligations?

Businesses collect travel data for many different reasons, from understanding how much their employees spend on trips to tracking travellers' locations in case of an emergency. But what many people who manage travel don't realise is that they also need to monitor to ensure compliance with tax rules.

Business travellers and their employers are potentially liable for tax every time they visit another country, even for as little as one day. In the USA, there is potential income tax exposure when crossing state borders.

A related challenge is immigration. Companies also need to understand how long employees will visit a country for in case it triggers the need to apply for a visa, or for a different kind of visa if the employee already has one. In 2013, the technology and outsourcing company Infosys paid the US government a record $34 million fine for visa fraud and abuse of immigration processes. There may also be a need, for certain occupations such as financial traders, to make a local professional registration.

In all these areas, authorities are getting tougher on companies which don't follow their sometimes hard-to-understand rules. The US has fined companies tens of millions of dollars for working visa violations. Countries including the UK, Germany, Ireland, Belgium, Canada and Australia have all been reported by professional services firms like Deloitte and EY to have increased their enforcement of tax reporting for foreign business visitors. According to EY, breaches of regulations have led to travellers being detained at immigration and to refusals of automatic Electronic System for Travel Authorization permissions for entrants to the US.

Authorities are cracking down as a way of improving their tax receipts and because the growth of "smart" passports over the past few years has made it easier to track how long visitors stay in a country.

In principle, business travellers are liable for a range of taxes, including income and corporation tax and social security, from the moment they enter another country. In practice, however, many countries have bilateral treaties in which they agree not to tax each other's citizens for up to 183 days per year. But this is not always the case. Brazil and the United Arab Emirates, for example, have few such treaties with Western countries.

Even where a treaty exists, short term business visitors, to use the technical term, can still be liable if their time is charged internally to the company entity in the country they are visiting instead of where they are based. For example, if an employee in Copenhagen visits London, there could be a tax liability if the UK office pays the Danish office for the employee's time or even pays the hotel bill. In the UK, Her Majesty's Revenue and Customs gives tax exemption only if the company files an annual report detailing the number of short term business visitors who enter the country each year.

How to make your business travellers compliant

It is clear that companies need to record how many days are spent by each travelling employee in each country. How to achieve this objective is less clear. Human resources and payroll systems are not usually much help. How can you start tracking accurately?

Talk to your tax people

One of the main problems is that tax and immigration compliance for short term business visitors is one of those issues which falls between different departments (including travel, finance and HR), which means no one "owns" it. The answer is to talk to the tax team within your company to see how you can work together. Your tax colleagues may be unaware how the systems and processes used for business travel could help them.

Use your travel data sources
Your TMC and booking tool data should provide a lot of the information you need. However, these sources cannot capture travel transactions booked through unofficial channels, so you may need to cross-check against other data feeds such as card statements and expense reports.

Use your security tracking tool
If you have a tool which tracks travellers to help them in emergencies, it may also provide a good record for tax and immigration purposes.

Use a professional services firm
The "big four" (Deloitte, EY, KPMG, PwC) are among those offering specific solutions in this area. Their tools include online calendars that employees must fill in to show their movements. However, a couple have developed a more sophisticated approach which involves taking automated booking data feeds to create alerts if a proposed trip is likely to raise tax or visa issues.

Monitor office visits
Some companies take a much less scientific approach by logging employee visits to offices abroad. This can be as rudimentary as checking the signing-in book, but it is also possible to log visitor badge scans.

Make booking through approved channels mandatory
Tax and immigration compliance is yet another reason to insist travellers use your business's mandated booking tool or travel management company to ensure maximum data capture.

The TravelpoolEurope perspective – Less difficult than it looks, and with potential upsides too

Along with legal CO2 reporting requirements and the General Data Protection Regulation, the need for tax and immigration reporting is increasingly making travel management a compliance management process.

As the differing solutions suggested above demonstrate, an additional challenge is the absence of one simple way to track the necessary data with complete accuracy. However, getting the tracking 100 per cent right is not essential to avoid big fines. The professional services firms say it is more important to show you are conscientiously trying to track movements.

Understanding how many days employees spend abroad can also be worthwhile for other reasons. For example, a business can better understand not just the travel costs of sending their people abroad but also how much time is being spent on projects. The data can also help to negotiate better insurance rates.