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MANAGING THE GLOBAL WORKFORCE WEBINAR SERIES

MOVING EMPLOYEES GLOBALLY: STRATEGIES FOR NAVIGATING COMMON CHALLENGES

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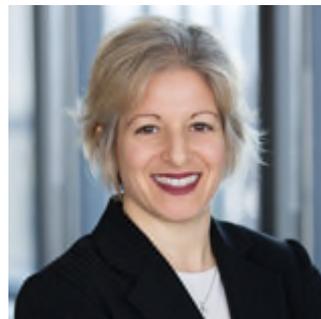
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THE CASE STUDY

Case Study – The Initial Facts

- It's Monday evening China time/Monday morning ET, and employment counsel from Star Company has called and advised that she has just learned that 3 employees have been assigned from the United States to overseas locations:
 - Fiona, a Canadian citizen employed in the United States, is on a flight to London, where she is scheduled to start working upon arrival. She may have an Irish passport as well.
 - Paul, a US citizen, is scheduled to fly this week to Dubai on a 2-year assignment, and the business wants him to cover the region with alternating 3-month stays each in Riyadh and Dubai and with intermittent trips to Qatar and Bahrain.
 - James, a US citizen, is slated to start working on a secondment from Hong Kong to Beijing the following week. He landed in Hong Kong over the weekend and is awaiting instructions on where to report on Monday. The business wants him to attend meetings in the Hong Kong office this week.

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US → UNITED KINGDOM

Case Study – US → United Kingdom

- It's Monday evening China time/Monday morning ET, and employment counsel from Star Company has just called and advised that she learned that Fiona, a Canadian citizen employed in the United States, is on a flight to London, where she is scheduled to start working upon arrival. She may have an Irish passport as well.

Case Study – US → United Kingdom

What additional information do we need to analyze the situation?

- Who is Fiona's manager in the United States? Do you have his/her contact details?
- Who invited Fiona to the UK? Do you have his/her contact details?
- Exactly what is Fiona required to do while in the UK?
- How long will Fiona be based in the UK?
- Will Fiona continue to be paid and employed in the United States and will she receive any remuneration from a UK source?
- Has Fiona booked accommodation and a return ticket to the United States?
- Did Fiona apply for a visa before travelling to the UK?
- Was Fiona issued an assignment letter or a back-pocket letter before departure?
- What nationality is Fiona, and, if she is Irish, is she carrying both her Irish and Canadian passports?
- What is Fiona's US visa status?
- Can you make contact with Fiona before she presents herself at Immigration Control?
- At what airport is Fiona arriving and when?

Case Study – US → United Kingdom

- What do we learn?
- Fiona is an IT manager and is going to the UK for 3 weeks to assist with the installation of new telephone equipment and ensure it is fully integrated with the IT systems in the US. She is carrying equipment on her person to test the new systems as well as her work phone and laptop.
- Fiona will continue to be paid and employed in the United States, but the hotel, return flight and expenses will be paid by the UK office.
- Fiona's manager did not consider whether Fiona required a visa. He thought that because she is paid and employed in the United States and going for a short period, it would not be an issue.
- Fiona did not apply for a UK visa and was not issued any paperwork.
- Fiona is an Irish national and a Canadian national. It is not known whether Fiona is carrying both her Canadian and Irish passports. Fiona has a TN visa for her role in the United States linked to her Canadian passport. It is due to expire in 2019.
- Fiona has a work phone and may be contacted by email on arrival at London Heathrow.

Case Study – US → United Kingdom

- What to do next:
 - Check if Fiona is permitted to enter the UK as a visitor without a UK visa
 - If Fiona is permitted entry as a visitor check if she will:
 - Be permitted entry as a visitor for a duration long enough to complete the work
 - Be permitted to complete the work as a visitor in the UK
 - Check if the UK office paying for the hotel, return tickets, and accommodation is permitted as a visitor

Case Study – US → United Kingdom

- Immediate steps:
 - Make contact with the UK office
 - Make contact with Fiona – proceed with caution
- Long-term strategy:
 - Create short-term business traveler program
 - Complete visa assessments prior to travel
 - Issue back-pocket letters
 - Monitor business travelers

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US → DUBAI

Case Study – US → Dubai

- It's Monday evening China time/Monday morning ET, and employment counsel from Star Company has called and advised that she has just learned that an employee has been assigned from the United States to Dubai:
 - Paul, a US citizen, is scheduled to fly this week to Dubai on a 2-year assignment, and the business wants him to cover the region with alternating 3-month stays each in Riyadh and Dubai and with intermittent trips to Qatar and Bahrain.

Case Study – US → Dubai

What additional information do we need to analyze the situation?

- What is Paul required to do in Dubai?
- Which Star Company will sponsor Paul in Dubai?
- Will Paul's US contract of employment be terminated?
- Will Paul continue to be paid and employed in the United States and will he receive any remuneration from a US source?
- Did Star Company apply for a visa before Paul travelled to Dubai?

Case Study – US → Dubai

- What to do next:
 - Paul must be sponsored by his employer in the United Arab Emirates and cannot work there without a lawful visa
 - Documentation required
 - Translation and attestation requirements
 - Timing (realistic vs. immediate)
 - Residency/visa requirements
 - Doha – Qatar
 - Riyadh – Kingdom of Saudi Arabia
 - Bahrain
 - An employee cannot get 1 visa for all Gulf Cooperation Countries (GCCs)

Case Study – US → Dubai

- Immediate Considerations:
 - US tax implications for US citizen
 - Secondment arrangement
 - Worldwide insurance
 - Local law requirements
 - Status of home jurisdiction contract of employment
 - Living in the Middle East – cultural training

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US → PRC VIA HONG KONG

Case Study – US → PRC via Hong Kong

- It's Monday evening China time/Monday morning ET, and employment counsel from Star Company has called and advised that she has just learned that an employee has been assigned from the United States to the PRC:
 - James, a US citizen, is slated to start working on a secondment from Hong Kong to Beijing the following week. He landed in Hong Kong over the weekend and is awaiting instructions on where to report on Monday. The business wants him to attend meetings in the Hong Kong office this week.

Case Study – US → PRC via Hong Kong

- You learn that Star Company has already issued James:
 - An offer letter from the Hong Kong entity
 - James to spend 50% of his time in Beijing and 50% of his time in Shanghai
 - Significant bonus to be paid in equity
- What additional information do we need to analyze the situation?
 - Reason for the proposed structure
 - James's immigration status globally – does he have permanent residency in Hong Kong or the PRC?
 - What, if any, entity does Star Company have in Hong Kong or the PRC?

Case Study – US → PRC via Hong Kong

- Issues to consider:
 - Tax: corporate and individual
 - Corporate: permanent establishment issues
 - Individual: PRC tax resident?
 - Location of and business scope of entity
 - Is there an entity in the desired location?
 - Will an/the expatriate perform duties within the entity's business scope?
 - Work authorizations
 - Hong Kong
 - PRC – requires sponsoring entity in the location where the expatriate will live; the expatriate can only work for one entity in the PRC

Case Study – US → PRC via Hong Kong

- Issues to consider:
 - Compensation issues with restricted currency
 - Local employment requirements for senior positions and depending on location
 - Social insurance and other benefits issues

US Immigration Issues to Consider when Assigning Employees Abroad

- Employees who are in the United States on temporary or “non-immigrant” visas
 - Will it be necessary to preserve the validity of the US work visa?
 - What about the employee’s dependents? Are they traveling abroad as well?
 - Is the employee involved in the permanent resident (green card) process?
- Employees who have lawful permanent residence/green cards
 - Employees and family members may need “re-entry permits” to preserve residence
 - Must be filed when applicant is physically present in the United States
 - Requires a “biometric” that can only be done in the United States
 - Valid for 2 years, extensions up to 6 years and sometimes beyond
 - Consider impact on eligibility for US citizenship
 - “Know before you go”: Provide information on citizenship requirements at the time of offering the assignment
 - Employees of US companies who are assigned abroad may be able to file a Form N-470 to preserve residence for citizenship (NOT physical presence)

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