



Employees sometimes perform remote work in whole or in part from outside Poland, which has many serious consequences for employers, regardless of whether they agreed to or were even aware of the fact of working abroad. We present below the key risks for the employer.

1 Duties of the employer as a tax payer

The tax authorities of the country where the work is performed may rule that the employee is subject to local tax residency. As a result, the employer may be required to register in that country and pay advances on the employee's income tax there. Such situations make it necessary to analyse double taxation agreements and local tax regulations. It may also affect the scope of the employer's obligations as an income tax payer in Poland.

3 Social security

The social security authorities of the country where the work is performed may rule that the employee is subject to social insurance in that country. As a result, the employer may be required to register in that country and pay contributions to the employee's insurance there. Such situations make it necessary to analyse the EU or international regulations on the coordination of social security systems and local insurance regulations. Within the EU, under certain conditions, it is possible for an employee to remain registered only with the Polish social insurance system on the basis of the A1 certificate, or take on the registration and payment obligations in another member state.

6 Posting or a business trip

In some cases, remote work from abroad may be considered as a business trip or posting to another country to provide services. It may then be necessary to register in the host country, comply with the time limits of the posting, apply minimum employment conditions and pay additional benefits to the employee, such as per-diem.

8 Health, safety obligations and accidents at work

Health and safety obligations as well as the procedures for accidents at work performed in another country may be subject to specific requirements under local laws and practices.

2 Permanent establishment of the employer

The tax authorities of the country where the work is performed may rule that the company conducts its business there and thus has a so-called permanent establishment. As a result, they may request that a part of the company's income be taxed in that country. The assessment of this risk depends in particular on the scope of the employees' duties and the duration of their work in the country.

4 Work permit

Work performed in another country may require a local work permit or a relevant registration. The employer may also be liable for violations of local immigration laws.

5 Protection of data and confidential information

Depending on the country in which the work is performed, the transfer of personal data and the protection of confidentiality of the employer's information may be subject to specific requirements under local laws and practices.

7 Local employment regulations

The employee may be subject to local employment law rules, such as particular employment conditions, protection against dismissal or working time limits. This is especially the case if the employee is deemed to be working in that country habitually or has been posted to that country to provide services.

Do not hesitate to contact us:



Michał Lisawa

Counsel | Employment

Michal.Lisawa@bakermckenzie.com

+48 668 472 196