XBHR Annual Conference – Vienna

Discussion Questions for Global LR Strategy

February 2015

1. Global Mobility/Immigration
   1. Has the tightening of requirements for obtaining work visas (1) changed labor models (e.g. outsourcing, increased use of vendors, establishment of local subsidiaries/affiliates; length of assignments); (2) shifted business focus to different products or services; (3) increased lobbying/policy influencing efforts?
   2. Countries currently presenting the most challenges?
   3. Impacts on transfers
      1. Compliance with local requirements; what resources can help with this?
      2. What labor/immigration laws most impact global transfers (e.g. wage and hour; minimum wage; social security; other benefits; vacation accruals; pension accruals; employments contracts; joint employer status)
      3. Requirement of local employment contract: what impact does this have on home and host country benefits/payments? Solutions for these issues? How does company deal with double payments of salary/benefits?
      4. Tax law policy: limitations presented and solutions to allow assignments? (For example: China restrictions on sending funds out of the country and India with same requirement but exception when services performed for the benefit of an Indian entity.)
      5. Ability to enforce employee obligations such as repayment of loans, competitive restrictions, return to home county, performance standards. Can this be dealt with globally or are country specific rules required?
   4. Affect that internal organization of a company has on global mobility

and having a mobile global workforce (e.g. multiple management chains (function vs. employment relationship), data privacy, structure of RIFs, compensation and titling parity considerations, global best practices.

1. Restructuring/Rebalancing
   1. If there are country restrictions on or processes for reductions and does the company voluntarily extend compliance with those to other jurisdictions? What is the value of doing so and what are the negatives of doing so?
   2. What time horizon do you consider when evaluating a restructuring decision? (Rising wages in China and whether investment in physical plant and equipment still makes sense.)
2. Competitive Restrictions
   1. Is your organization using them? If not, is it a decision not to use them and why? If yes, what is your success in enforcing them?
   2. Is it better to use employment agreements or separation agreements (or both) to establish and enforce competitive restrictions?
   3. Are you using competitive restrictions in more than one jurisdiction? What are the “lessons learned in using them cross-jurisdictionally?
   4. Are you attempting to harmonize them to the “lowest common denominator” for enforceability and consistency (or as a template) or do you customize them?
   5. Do the jurisdictions in which you are using them require financial consideration? If so, how is this addressed?
   6. Are they worth the effort?
3. Establishing Business Interests in Africa
   1. Corporate considerations with HR impact
      1. Establishment/acquisition of entity:
         1. Is there a requirement to have a local entity to hire employees/contractors or can a foreign entity employ directly without a local business presence?
         2. Acquisition of existing entity:
            1. Do automatic transfer of employment rights apply?
            2. Are existing liabilities (underfunded pensions, litigation, non-compliance with employment-related obligations) transferred?
   2. Special employment-related considerations
      1. Some countries (e.g. South Africa) have requirements to hire/train special categories/ratios of workers (i.e. minorities, nationals); others have restrictions (entry, length of stay, professional activities) on foreign workers. What’s the impact of this on choice of business location or mobility practices?
      2. Are competitive restrictions (NCA’s, confidentiality agreements) enforced? How to deal with inability to restrict competitive hiring or protect IP?
      3. Cultural differences among African countries and between African/non-African countries; impacts on the ability to move people into Africa and have them perform effectively/train replacements? Have these differences necessitated changes in global mobility policies/practices?
      4. Union/employee representative situation in African countries and the impact this has on ability to bring in outside employees
      5. Has the immigration environment affected the ability to successfully enter this market?
4. Cross-Border Expansion/TUPE rights
   1. Cross-Border Expansion
      1. Have any of your organizations gone through cross-border expansions?
         1. How involved was HR in the business planning; how “upstream” was HR brought into the process? (Too soon? Too late?)
         2. Most important HR resources to have the table early in the process? (Recruiting? Employee benefits and pay practices? HR-related legal?)
         3. Biggest challenges from an HR perspective? (Recruiting? Talent generally, including qualified expats? Pay and benefits?)
         4. Assessing and dealing with “cultural” issues?
         5. If your organization has expanded into a new jurisdiction more than one, what did you do differently the second time? Why?
         6. For MNEs, is an expectation of accepting overseas/foreign assignments built into the development plan for employees looking to move up in the organizations? How?
   2. TUPE (Transfer of Undertakings/Protection of Employment) Rights
      1. Regulations that dictate when a business has been sold/transferred, including outsourcing, and it remains fundamentally the same business, employees must transfer with the business and retain their terms and conditions of employment
      2. What variability exists among TUPE rights? Does this impact your acquisition/divestiture decisions?
      3. Have you gone through a transfer to which TUPE or similar legislation apply? If so, what was the experience? What were the biggest challenges? What are the lessons learned from the experience?
5. CBAs for Multinational Companies
   1. Do you need to maintain a centralized overview/oversight of the company’s CBAs. If so, how do you structure and administer that process. How much control is exercised at the parent corporation level and how much autonomy remains with the local business unit/company
   2. Should you consider a Global Human Rights Policy to have a framework of talking points around issues that might be the subject of union organizing
   3. Do you have different attitudes/approaches to unions in different locations? If so, how do you communicate these different approaches to the various constituents and how pro-active do you want to be regarding this communication?
6. Internal Communication Processes/Structures
   1. Is communication regarding HR issues within a multinational necessary?
   2. How does the company provide for needed communication of these HR related issues within its organization? What challenges arise from matrix reporting and how best to address those challenges?