12.2.22 INTERNATIONAL EMPLOYEES

Last updated on: 04/01/2014

Formerly Known As Policy Number:
2.2.13, 23.12

This Guide Memo presents policy for hiring, assigning international employees, and establishing international telecommuting arrangements.

Authority:
This Guide Memo was approved by the Vice President for Business Affairs and Chief Financial Officer.

Applicability:
This policy applies to all Stanford University employees, including SLAC and employees covered by collective bargaining unit agreements.

1. Definition

An “international employee” is defined as an employee of Stanford University whose work site is located outside of the U.S. and its territories for any relevant tax period, generally at least six months in any calendar year. This includes employees who are telecommuting under an arrangement specifically approved by their business unit that permits the employee to work remotely in an international location. All individuals defined in Guide Memo 2.2.1\[1\], are considered employees for the purpose of this Guide Memo. Consultants, contractors and volunteers are not covered by this Memo.

2. Policy

a. Stanford University international employees are subject to all employment and other related laws of the country, city or region in which they work.

The existence of Stanford University employees outside the United States may trigger additional compliance requirements including, but not limited to those relating to local jurisdiction employment, payroll tax and statutory benefits regulations. These requirements are likely to impose significant additional costs on the unit employing the individual. Therefore, hiring or assignment of employees to international positions, or telecommuting from an international location must be supported by an important University business purpose and not be merely an accommodation to the employee. Such placements must be supported by compelling programmatic justification and demonstrated skill requirements that can only be met by hiring or transferring a Stanford employee in that role. The manager, with support from central administrative offices identified below, is responsible for evaluating the impact of the proposed arrangement on programmatic need and performance.
management objectives and for ensuring that the arrangement is in compliance with local laws and University information security and privacy requirements. Further, individual employees bear the responsibility of evaluating and managing the impact of an international working arrangement, including, but not limited to, immigration, personal tax implications and additional costs that may be difficult to anticipate.

The school or unit approving the assignment is responsible for monitoring compliance with University, U.S. and international regulations, including but not limited to: visa and work authorizations, tax law, employment regulations anti-corruption legislation, in-country banking and money handling, privacy and data protection. Guidance is available from Stanford’s global compliance administrators (Global Business Services, Internal Audit & Institutional Compliance, Risk Management, Office of General Counsel and Global HR Programs).

b. Approval
Approval of the hire, assignment or telecommuting arrangement must be obtained in advance in writing from the responsible Vice Provost, Vice President (or similar level equivalent to the highest administrative person within the organization unit), or his/her designee, identifying the key University business reasons for the assignment. All telecommuting arrangements must be consistent with the guidance provided for Flexible Work Options [2]. In addition, Global HR Programs and Global Business Services must be consulted prior to any commitments made to employees or prospective employees. Units must anticipate significant lead time and additional funding that may be required to implement a proposed international hire or assignment.

c. International Employment Relationship
Units are advised that it may not be possible to establish a Stanford University employment relationship in another country. If the presence of a Stanford employee triggers a requirement to register in-country, approval is required by the Senior Associate VP for Finance and General Counsel. If the requirement necessitates the establishment of a legal entity in country, approval of both the Vice President of Business Affairs and General Counsel will be required. There must be persuasive business reasons and expectation of significant ongoing Stanford University presence in country to justify establishment of new legal entities. Due to the very significant compliance obligations of such actions, these steps require due consideration and advance planning. Stanford will not elect registration out of country for a single employee.

If a direct employment relationship in country is not appropriate, it is recommended that consideration be given to outsourcing arrangements with a temporary staffing agency or affiliating with an in-country partner. Global Business Services and Global HR programs are available to consult on available options, and develop required agreements.

d. Administrative Costs
International assignments, hires or telecommuting arrangements require due diligence and may trigger the need for tax and legal consultation outside of the University. The assigning unit is responsible for all externally incurred costs incurred as a result of engaging in an international employment relationship. Failure to notify Global Business Services of the proposed placement of an international employee can result in after-the-fact implications which can be of considerable cost to remedy, and which will be borne by the unit.

e. Taxation
United States citizens and residents are taxed on their worldwide income. The US is signatory to a network of international double tax treaties which may, under some limited circumstances in certain jurisdictions, protect employees from double taxation in the US and the country in which they are working. However, there are many countries in which income and payroll taxes may be due and payable by individual employees, or which may create employer withholding obligations in country that are difficult to discharge due to lack of registration status. Units are cautioned that international taxation can be extremely complex and is fact and circumstance driven, requiring consideration of individual and family circumstances. Consultation with external experts is frequently required and resulting costs will be borne by the unit. By policy, Stanford does not sponsor tax equalization between jurisdictions with different tax rates. Employees are expected to absorb
these costs individually, and are strongly advised to consult with a professional international tax advisor prior to committing to an international assignment.

f. Benefits
In-country statutory benefits and Stanford-provided health and welfare benefit plan choices may be different from those offered to employees who work on Stanford’s California campus. Contact Global HR Programs for international employee benefit information.

g. International Social Security Totalization Agreements
Employees who have divided their careers between the US and another country may incur dual Social Security taxation on the same earnings in both countries. Totalization agreements may eliminate dual Social Security taxation and may help fill gaps in benefit protection for workers. The US has executed totalization agreements with a number of countries, primarily in Europe. The list of current agreements can be found at U.S. International Social Security Agreements [3].

Consult with Global Business Services to determine if an assignment may trigger a social security tax exemption and resulting requirement to obtain a certificate of coverage.

h. When Employee Works in California
University Payroll must be notified of any days that the international employee is present in California on Stanford business. Compensation earned on such days is considered California-sourced taxable income regardless of employee’s country or state of residence and is subject to all California tax provisions. The international employee is responsible for submitting the Out-of-State Employee Days Worked in California form [4] to report the number of days an international employee works in California.

Employees who travel frequently, or who are assigned internationally are advised to proactively track days spent outside of the US, by country, for purposes of individual tax filings.

i. HR Administration
International employees are tracked as a separate group in the University’s HR Information System. Forms to provide the information necessary to enter the data into the system are available through Global HR Programs. New employee information, change in information and employee termination actions are handles by University HR Transactions Services. HR administration for international employees is provided by the unit’s own HR team. Additional assistance is available from University HR through Global HR Programs; email mailto: globalhrprograms@stanford.edu.

j. Registration of Foreign Activity
Stanford is required to report the number of international employees annually to the federal government. Accordingly, units are requested to register the activity relating to the foreign hire or assignment in the Foreign Activities Registry [5] maintained by Global Business Services.

3. For More Information
For international employees, visit Global Business Services [5].