

FOREIGN EMPLOYMENT AND EMPLOYMENT LAW



Creating a new business, or expanding an existing one, can be a daunting task for those operating in foreign territory. These businesses will need to follow the rules that relate to human resources and employment law compliance in the country in which they are operating.

When opening an office overseas, most United States businesses find that employment law has the most regulations to comply with and human resources comes in second. There are rules that will deal with minimum pay and benefits, maternity and paternity leave, work time, the content of employment contracts, termination protection and discrimination in the workplace in almost every foreign country.

Should your business need to recruit overseas, if you are not relocating any United States citizens, your company must follow any statutory rights. Statutory rights will still apply even if you are trying to apply United States law. Much like a foreign country trying to employ our citizens in the United States has to abide by our laws; companies from the U.S. operating overseas have to follow those countries' laws.

Prior to traveling to a new country for work, make sure you figure out how easy or difficult it will be to exit the country should something go wrong. You can easily learn from the mistakes of others in your company who have done the same thing for their career. You can research with accountants in your firm, the payroll provider, a recruitment partner and the lawyers for the company. Ask them about the mistakes companies from overseas are making when they move here.

Registering the business will need to be done if the employee will be staying overseas for a lengthy amount of time, not just making occasional visits here and there. You can register the business as a branch, a representative officer, or a subsidiary. Figuring out which option is best for your business will vary depending on the country where you are operating.

The penalties for not complying with foreign countries' human resources regulations and employment law can be very harsh. For example, if you are selling products with a registration in the Philippines, you will face six to eight years in prison. Without a registration number, Norway does not permit you to rent office space, import goods, or open a bank account for your business.

Many companies, even some based in the United States, are shying away from the all-in approach required to run a foreign office. Instead, the companies are hiring foreign employees who can work from home using an internet connection, a computer, and a phone. This type of employee is known as a floating employee because he or she is not tied down to physical office. A floating employee does violate a lot of local foreign laws, especially when the company employing the worker is deemed to be a permanent establishment. This means the company will need to file taxes with the foreign country.