



# HR strategies for same-sex secondments (Part 2)

*The implementation of these best practices will benefit both the global organization and the employees*

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This article is the second in a two-part series addressing issues multinational corporations should consider when placing gay, lesbian, bisexual or transgender (GLBT) employees in international postings and secondments. [Part 1](#) of this article outlined several jurisdictions' treatment of same-sex marriage and protections based on sexual orientation and gender identification. Part 2 will now provide an outline of planning considerations and recommendations for best practices for managing international secondments and placements in jurisdictions in light of varying treatment of same-sex marriages across the globe.

While global organizations usually have policies on treating employees equally regardless of sexual orientation or gender identity, the laws and cultures of the foreign jurisdictions in which they do business and where the seconded employees may work can vary widely from those policies. When implementing a strategy for international placements and placing seconded employees, a company should apply its policies consistently around the globe to all employees, regardless of sexual orientation or gender identity. But to achieve that consistency, planning and some flexibility are required.

## **Planning considerations**

Employers should address the following questions in planning any international placement:

- What are the host country's laws and culture on homosexuality, same-sex spouses or domestic partners, and children of same-sex couples?
- Will host or home country's immigration laws affect the employee's same-sex spouse's or domestic partner's immigration status in the foreign jurisdiction? What about

the immigration status of the children of the same-sex couple?

- How will the employee's same-sex spouse or domestic partner be treated for purposes of host country taxes? Will the employee be reimbursed for any adverse tax liability?
- Will benefits, including healthcare, be provided to the employee's same-sex spouse or domestic partner while abroad? How will host or home country laws affect the arrangement?

When addressing these planning questions, companies must consider both the host and home jurisdictions separately and on a case-by-case basis. A company's international placement strategy may need to vary based on the host country's laws and culture to show that the organization's policies apply and that benefits are available to GLBT seconded employees.

### **Recommendations and best practices**

GLBT employees who are considering international assignments want employers to understand their concerns regarding such assignments. Employers should convey the message that *all* employees should take advantage of international assignments and identify the support that will be provided if they do. Thus, it is important to have policies on secondments and relocations, but it is equally important to be flexible in placing GLBT employees on international secondments. A one-size-fits-all approach may not be desirable or effective for these employees. The organization's policies should indicate the possibility of alternative options for GLBT employees where same-marriage is not recognized or accepted in the host country or where GLBT lifestyles are criminalized. Personnel should be trained on how the policies apply to GLBT employees, how to encourage participation in international assignments, and how to address alternative assignments to avoid any detriment to their careers.

### **Choice of destinations for international postings**

To achieve career advancement, some employees do not feel that they can refuse an international placement, especially if the reason for declining the placement is the host country's treatment of GLBT individuals. Some multinational companies are flexible in international postings and offer placements in several jurisdictions. This allows seconded employees to make an informed decision on placement, taking into consideration the host country's laws and treatment of GLBT individuals, without fear of damage to their careers.

Alternatively, some multinational companies have policies in place that allow employees to request an alternative destination without providing an explanation for the request. Such policies help protect the privacy of employees who have not disclosed their sexual orientation.

### **Making informed choices on destinations of postings**

Without any knowledge of the host country or its laws, it can be difficult for an employee to make an informed decision on the potential posting or a choice of postings to different countries. To allow employees to make informed decisions about secondments to foreign countries, some multinational companies provide guides on host countries that address the legal and cultural environments and provide security or risk assessments regarding the treatment of GLBT individuals and the culture for same-sex relationships. These guides can include commentary by other seconded employees who have worked and lived in the host country and offer practical considerations for living in the host country.

### **Flexible relocation packages**

Given the varying degrees of acceptance of GLBT lifestyles in different countries, an employer who can offer a flexible relocation package is more likely to fill the posting with the best candidate. The relocation package can be tailored after consideration of the immigration status of a same-sex spouse or partner and children, the types of benefits that can be offered to same-sex couples, and the tax treatment for same-sex couples. Employers can provide additional compensation to the seconded employee to assist with purchase of benefits and health insurance for the same-sex spouse or partner, and the additional compensation can be grossed up to account for the tax treatment. Likewise, in jurisdictions where there is an adverse tax treatment for same-sex couples, the multinational company can offer additional compensation or allowances in an attempt to make the seconded employee whole.

If visa restrictions, criminal laws or the host country's culture do not allow the same-sex couple to relocate together to the host country, a relocation package could include an allowance for the cost of flights to the home country or other destinations so that the seconded employee can spend time with his/her spouse or partner and children. Also, this type of accommodation can include working from the home country on a part-time basis during visits. If the visa restrictions do not allow a same-sex couple to relocate to the host country or require the spouse to obtain a visa independently, some companies assist the spouse or partner in obtaining a visa or a job in the host country.

Additionally, many global corporations' employee assistance programs offer seconded employees support and assistance in dealing with cultural differences in different jurisdictions.

### **Alternatives to expatriation**

If due to the host country's laws or culture, it is not possible to fulfill a posting, some global companies allow employees to work remotely with business trips to the host country when needed or posting to an alternative location. However, this arrangement should be carefully considered as there may be some tax implications.

To overcome jurisdictional challenges for seconded employees, the implementation of these best practices will benefit both the global organization and the employees. The best talent will be placed where it benefits the company and its business needs, and the employees will feel productive and successful.

*The article by partner Tiffany Downs and senior associate Scott Wagner of the Atlanta office at U.S. law firm FordHarrison, alongside Pia Sanchez of UK firm Lewis Silkin and Jean-Baptiste Chavialle of the French firm Capstan examines the HR implications of same-sex work postings. All three firms are members of the global employment law firm alliance Ius Laboris.*



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