



ABA Labor & Employment

Employing Ex-Pats Outside the US: What obstacles are presented and how do you overcome them?

The Four Red Flags

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Flag 1: The contracts rarely tie up

- Often no clear decision made between secondment, dual employment or local employment.
- Expat contract frequently inconsistent with US terms.
- Employment at will vs local termination requirements.
- The restrictive covenants are usually inconsistent
- Often no statement as to which law and jurisdiction applies or which document prevails.
- Any clear, consistent statement of the expatriate's benefits – school fees, relocation costs, tax, pay?



Flag 2 – No one thinks enough about the end of the secondment at the start

- Is there an end or is it indefinite?
- Localization – what if the expatriate will want to stay long-term?
- Repatriation – details of how we get you out there but not how/if we bring you back.
- Termination – what local statutory and contractual rights will apply?
- Will restrictive covenants work locally?



Flag 3 – No one follows procedures or allows enough time

- Last minute implementation.
- Not enough time to document reasons or follow procedures.
- Procedures affect almost every statutory employment right and related compensation.
- Expatriates need more time to make arrangements for schools, leases and possible change in immigration status.



Flag 4 – The overseas line manager will create the biggest liability

- Rarely have the time or interest to understand overseas rules, procedures and employee rights.
- Importance of training of line managers responsible for staff overseas in:
 - basic principles and procedures which need to be followed if terminating an expatriate's employment;
 - creating relevant document trail to support business reasons for termination;
 - Allowing enough time for effective implementation.
- Importance of US counsel being involved in the process.