Expats & Currency Stability

Currency movement can have a significant impact on the value of international assignees' remuneration. Juliet Carp highlights strategies that multinational employers may consider to give staff working overseas more financial security.

Employers must make decisions about how assignees will be paid, ideally before the assignment begins. If a US employer sends an Englishman, Bob, to work in France, should Bob's salary be confirmed as GBP100k per annum or Euro140k per annum or USD150k per annum? Remuneration may also be delivered in one or more different places or currencies. Bob's employment contract may confirm that his salary is USD 150k per annum but his salary may, in practice, be delivered in Euros into his French bank account. Different arrangements could potentially apply to salary, allowances, expense reimbursements etc. Bob's employer will also need to decide which exchange rate to use to work out how many Euros to pay him. The decisions made should be confirmed clearly to the employee in writing. In many (if not most) jurisdictions there will be a legal requirement to provide clear written information about pay.

Factors such as movement between home and host currencies, inflation, foreign exchange restrictions, banking practicalities, and the timing of delivery, may all have an impact on the value of payments delivered to employees working overseas. There is no "one size fits all" solution to managing these challenges as, generally, when currencies move, someone wins and someone loses. However, some or all of the following approaches may help reduce the impact of fluctuations on the business and individual employees.

- **Trap**
  Beware the temptation to simply increase salary when the value of host currency falls and an employee loses out: the employee may "win" when the host currency rises again and it may then be hard to reduce salary. In many countries, it is difficult to either retain discretion to vary pay unilaterally or make deductions, even when this is expressly agreed.

- **Hedging**
  Often the costs of employing people are incurred in one currency but borne in another. For example, the home business may ultimately bear the salary costs of an employee whose pay is fixed and delivered in host country currency. It is possible to "hedge" these costs commercially, in the same way as it is for other international currency transactions. So, for example, if an employee is sent to the Eurozone with a salary of Euro 200k per annum, it is possible to "fix" the US dollar value of that salary cost commercially.

- **Split Delivery**
  Many expatriates continue to meet expenses in their home country currency while they are abroad (e.g., home country mortgage payments, school fees and home taxes). At the same time they will be obliged to pay host country living expenses pegged to host country currency (e.g., housing, utilities, food, transport, local taxes). Often the employer will agree that a fixed portion of salary will be paid in the home country in home currency and the remainder in the host country in host currency. The currency and location split might be set at the outset or, more commonly, there will be a mechanism allowing change to those proportions and/or to the exchange rate at specified intervals or in certain events. For example, significant currency fluctuations or divorce. Whatever arrangements are agreed, they should be confirmed in writing.

- **COLA**
  Costs may vary not only because of currency changes but because of inflation or simply because local pricing patterns are different overseas. The employer may offer a cost of living allowance or adjustment (usually known as a "COLA"). Typically, this is an additional allowance paid on top of salary to take account of the difference between home and host country living costs. Usually COLA is set using objective data purchased from specialist global mobility consultancies. Data is available for different home/host combinations taking account of typical expatriate purchasing patterns.
  In many countries it is difficult to lawfully apply a negative COLA (i.e. reduction to pay) unilaterally, or to retain flexibility to reduce allowances via the contract. For most, a positive uplift will work. Review timing may vary between businesses and locations. Some businesses offer COLA only for the first year or two in the host location. Others may apply a lower COLA after an initial period, to take account of adjustment to "local" spending patterns over time.

- **Other Allowances**
  Some payments may be usefully separated from general remuneration. For example, providing a separate housing allowance or meeting accommodation costs directly may make it easier to respond to changes in local prices without impact on cross-border pay parity and benefits linked to salary (such as pension contributions or bonus). Offering separate allowances may also make negotiation of new terms prior to return home or a new assignment easier than if all costs are included in base salary.

- **Tax Protection**
  Tax and social security may have a significant impact on the net value of employees' remuneration. Many employers offer tax protection or equalisation to reduce the impact of change on employees. They do so by pegging the real impact of withholdings to a home country tax regime or other reference point. Care should be taken with documentation of these highly complex arrangements, for example, to ensure that overpayments of tax can be recovered from the authorities and to anticipate change.

- **Financial Advice**
  Employees can be adversely affected not only by currency fluctuations but by the longer-term impact of instability on savings, pension etc., for example, in the event of bank collapse. Prudent (and unregulated) employers generally avoid taking responsibility for employees' personal financial affairs, and most would encourage employees who may have concerns about pension, investments, etc., to seek their own independent advice.

Expatriates can be particularly demanding for HR to manage and a consistent policy may help to reduce the pressure for "special deals". Clearly communicated early policy decisions made and documented before financial impact is felt by individual employees will usually be easier to manage, particularly in overseas jurisdictions where binding contracts and extensive employee protection are the norm.

Generally, it is worth thinking through every aspect of the employee's package from expenses through to reimbursement by the tax authorities, to try to understand where currency movement or other financial instability might have an impact, before making decisions on company policy and individual terms.

Finally, employers should keep an eye on discrimination laws, particularly where individuals are employed by the same employer. It is worth asking whether there is a good commercial – and lawful – reason for treating people with different home countries differently?

This article is intended to promote discussion only and should not be relied on as legal advice.

Checklist For Employers:

- **Regulatory constraints?**
- **Employee's expenses to be met in home and/or host countries?**
- **Especially significant host or home costs e.g. housing?**
- **Cost of living differences between home and host?**
- **Home or host inflation a concern?**
- **Home and host currencies stable?**
- **Home and host banking systems stable?**
- **Tax equalisation or protection to be provided?**
- **Remuneration costs to be borne by home/host entity?**
- **Treatment of local hires and comparable expats?**
- **Sufficient flexibility for the future?**

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