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# LABOUR LAW ISSUES OF EMPLOYEES' REMOTE WORK FROM ABROAD

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■ AEB| Joint Tax & HR Committees (Labour Law Sub-Committee) Open Event  
REMOTE WORK: TAX & LEGAL ASPECTS OF WORKING FROM ABROAD  
8 November 2022

# Agenda

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Direct Employment from abroad: Labour Ministry frowns

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2

Indirect Employment Options for Individuals Staying/Residing  
Abroad

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**1**

**Direct Employment from  
abroad: Labour Ministry  
frowns**

# Direct employment to work from abroad

Hiring for distant work under Chapter 49<sup>1</sup> of Russian Labour Code:

Legally feasible or not?

- **No explicit limitation in Labour Code**

Article 312<sup>1</sup>: General definition

Distant/remote work = performance of job function determined by employment contract outside location of employer, its branch, representative office, other standalone subdivision

- **Principal criterion: possibility to discharge of job obligations**

Article 312<sup>8</sup>: Employer may terminate contract in case employee relocates to vicinity where it is impossible to perform job functions.

# Direct employment to work from abroad

## Labour Ministry frowns...

Letters of 27 July 2016 N 17-3/B-292, 16 January 2017 № 14-2/ООГ-245, 15 February 2022 N 14-4/10/B-1848

## PRINCIPAL ARGUMENTS WORDED BY MINISTRY

- ❑ Labour Code does not apply outside the Russian territory
- ❑ Employer is unable to ensure safe working conditions for employee staying abroad

## PRINCIPAL COUNTERARGUMENTS

- Place of work: Russian Supreme Court considers employing entity as place of work
- Labour Safety: same as for regular employee assigned to business trip abroad

# Direct employment to work from abroad

*Labour Ministry frowns... SO BE IT!*

## ❑ PRACTITIONERS

Unless relevant statutes are amended to make this option illegitimate and administratively prosecutable, this is legitimate

## ❑ FINANCE MINISTRY

*Let's at least take decent taxes from them!*

However, keep an eye out!

**2**

# **Indirect Employment Options for Individuals Staying/Residing Abroad**

## Indirect Employment Options for Individuals Staying/Residing Abroad

**ALL OPTIONS ARE LEGITIMATE ON CONDITION THAT PARTIES DULY COMPLY WITH TAX AND MIGRATION RULES APPLICABLE IN BOTH JURISDICTIONS**

- Direct civil law-based services contract with individual  
*Parties may select applicable law*
- Services contract with foreign company – individual’s employer of record
- Services contract with Russian company/agency - individual’s employer of record/customer by international services contract
- **Invisible at work**  
Individual is hired by foreign company of same group and effectively support its Russian subsidiary or business partner



A white speech bubble is centered on the left side of a dark red background. The background is filled with a bokeh effect of small, out-of-focus light spots. The word "Questions" is written in a bold, dark red font inside the white bubble.

**Questions**

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