



Secondments

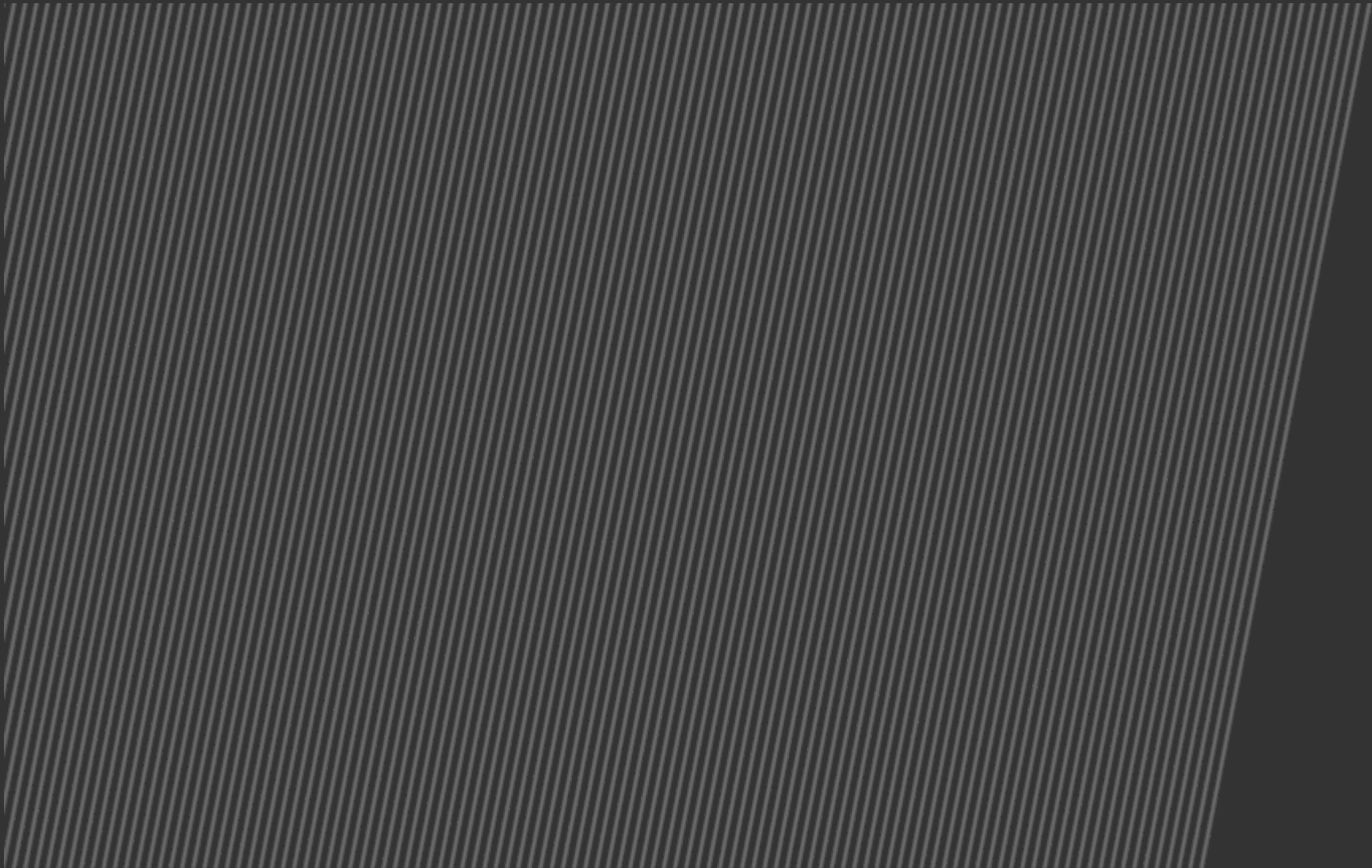
AEB Expatriates Conference
Tim Carty, Partner Human Capital

07 October 2008

Agenda

- ▶ Why would you want to second someone?
- ▶ Why would anyone want to stop you doing so?
- ▶ Is secondment illegal?
- ▶ What are the options, and the risks involved?

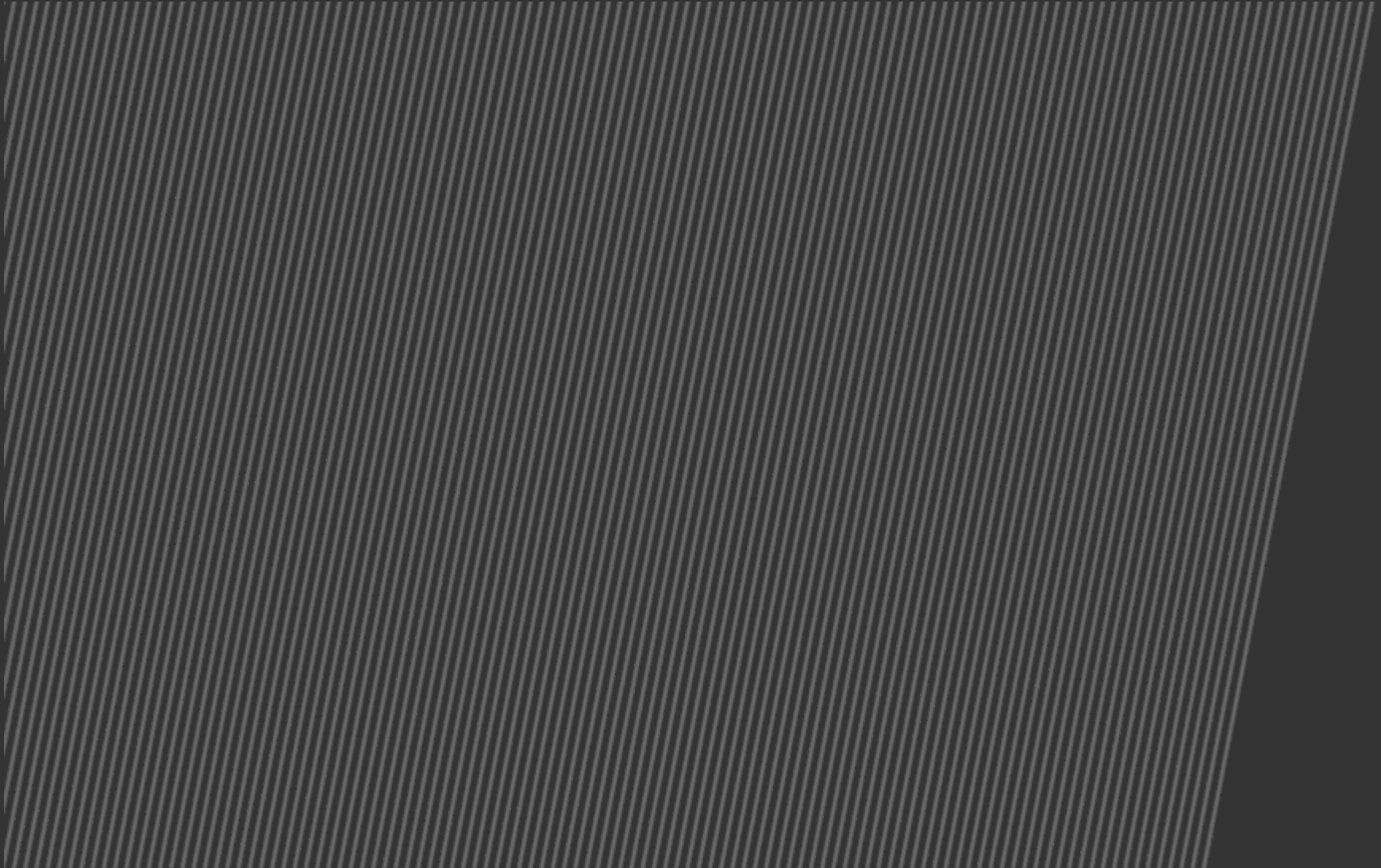
Why would you want to second someone?



Why would you want to second someone?

- ▶ I don't want to be paid in rubles
- ▶ Home country employment protection
- ▶ I need to stay in my home country social security
- ▶ I need to stay in my home country pension plan
- ▶ Life assurance
- ▶ Credit Rating, Mortgages, Divorce and Alimony
- ▶ Host country confidentiality
- ▶ Out of sight, out of mind

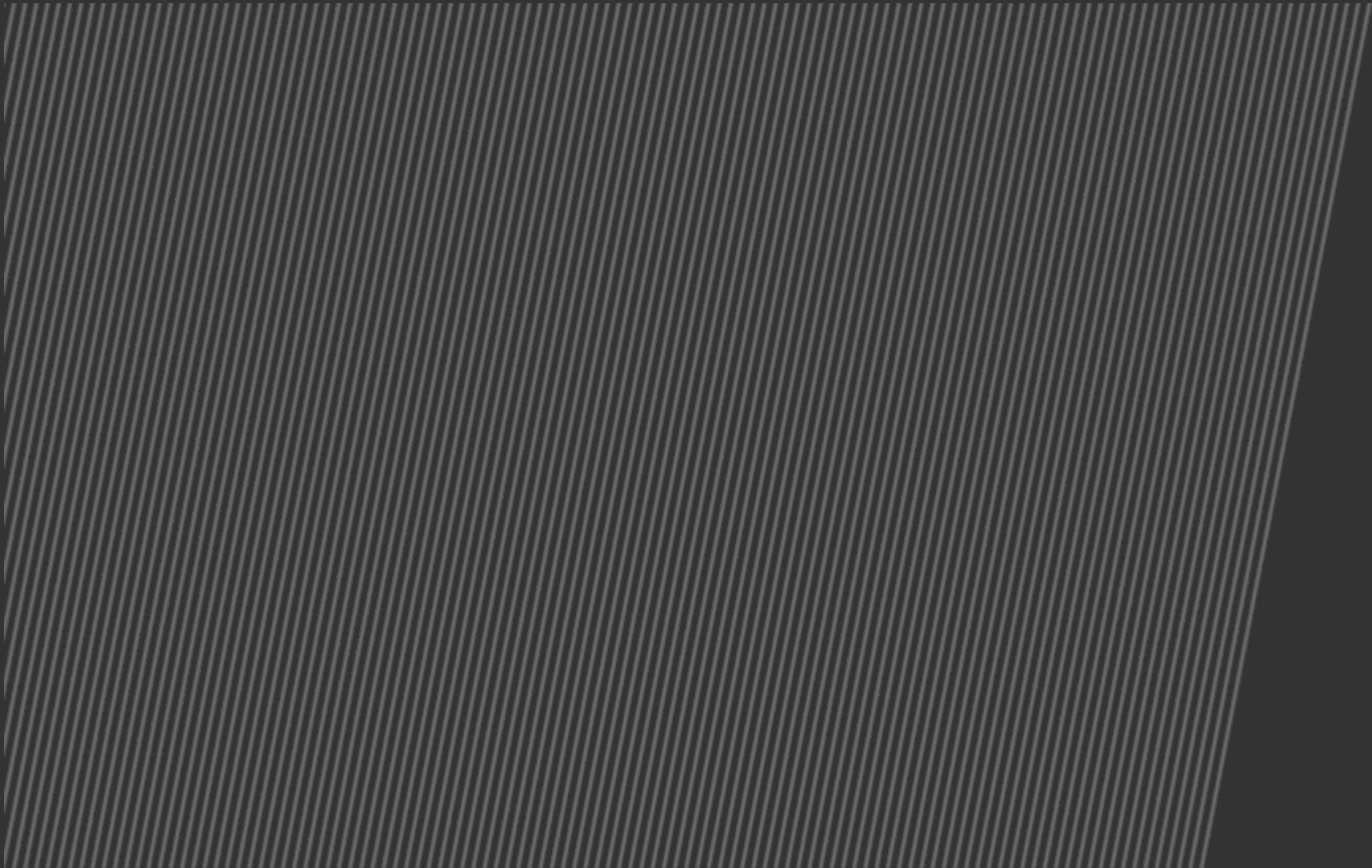
Why would anyone want to stop you from doing so?



Why would anyone want to stop you from doing so?

- ▶ Control
- ▶ Suspicion of tax evasion
 - ▶ Income Tax
 - ▶ Social Security
 - ▶ Profit stripping via secondment fees
- ▶ Labour Law issues and administration in Russia
- ▶ Absence of any corporate responsibility for the expatriate
- ▶ Officers of Russian companies

Is secondment illegal?



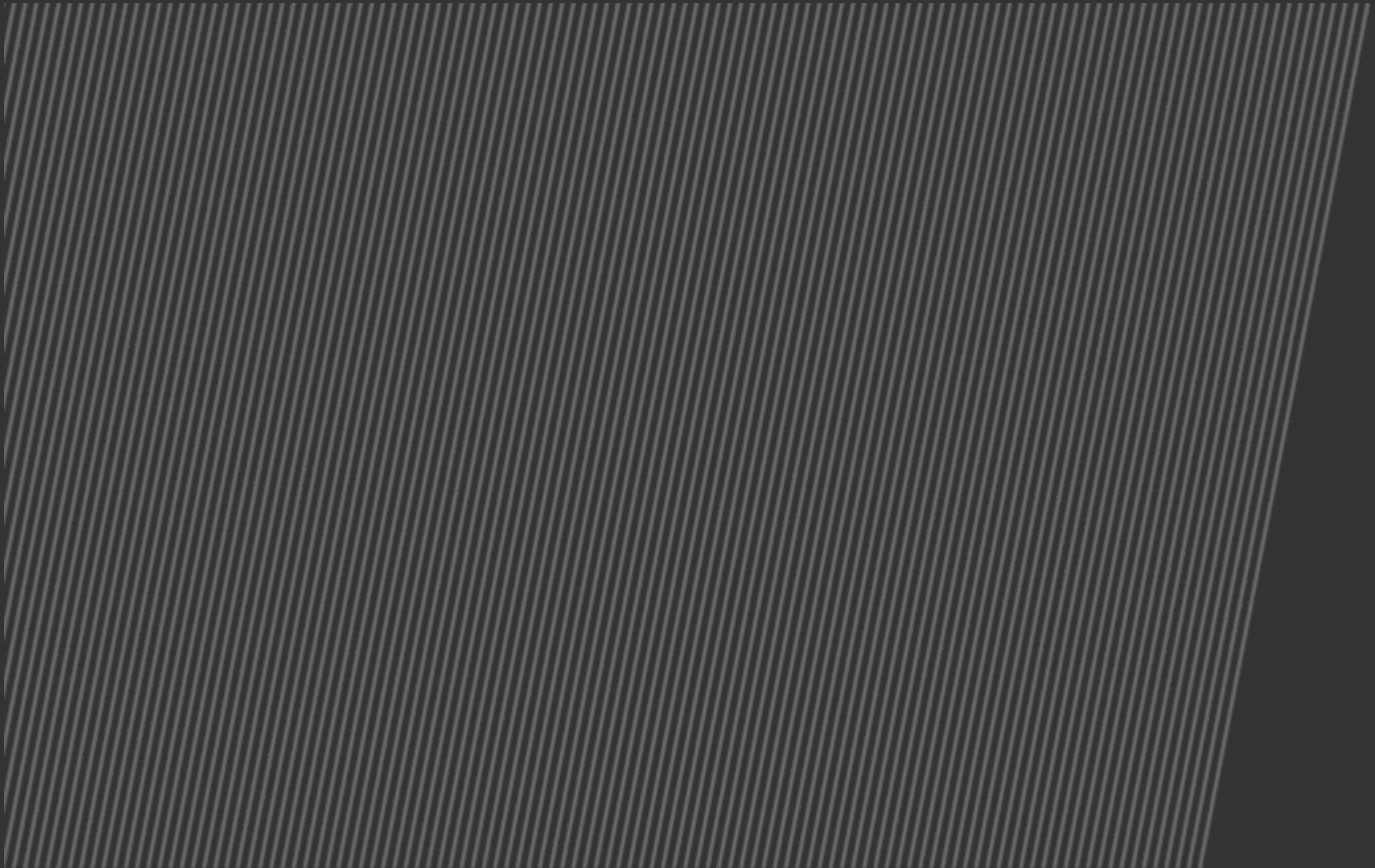
Is secondment illegal?

- ▶ No – it is not illegal. It is actually actively “legal”.
- ▶ Article 306.7 of the Tax Code
- ▶ Letter of FMS 7 February 2003
- ▶ Letter of MinTrud 22 August 2003
- ▶ Hundreds of court cases

- ▶ If you keep saying it is illegal, then people will believe you.

- ▶ The problem is interpretative issue with work permits

What are the options? What are the risks?



What are the options? What are the risks?

<u>Approach</u>	<u>Risks</u>
Full Local Employment	None (except no expatriate)
Register PE and use service contract	Administrative burden. How many p.e. registrations?
Dual employment with secondment fee	Non-deductibility risk; VAT; UST risk; 2 work permits – can be finessed
Dual employment with no charge back	No deduction, p.e./corp presence risk; 2 work permits
Dual employment with Service fee	Significant p.e. risk; withholding; VAT; 2 work permits

**Don't keep talking about the
problem**

Think about the solution!

Questions?