

A woman with curly hair, wearing a grey blazer, is looking at a laptop screen. The background is a bright, out-of-focus office setting.

ON THE GO WITH MOBILITY COMPLIANCE

CERTAINTY

INGENUITY

ADVANTAGE

 **Computershare**

Upcoming Events

> Webinar Series

- All Things ESPP @ www.computershare.com/allthingsespp
- All Things Equity Plans @ www.computershare.com/allthingsequityplans

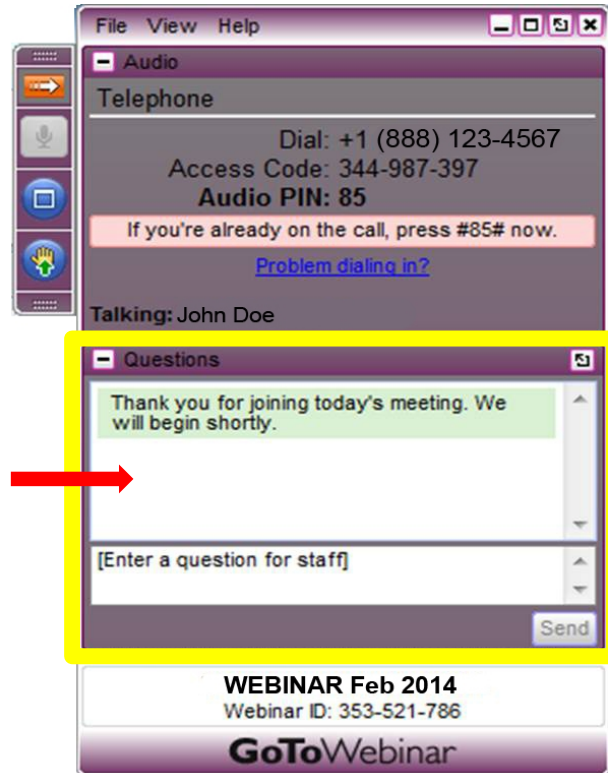
> ESPP Day

- November 2018 in Northern California
- Sign up for alerts at www.computershare.com/esppday

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- › Presentation is being recorded
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- › Presentation qualifies for one CEP credit
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Introductions



Megan King, CEP

Senior Relationship Manager,
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Senior Manager, Global Equity, Deloitte Tax

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Who is a “mobile employee”?

Any employee that provides services in more than one tax jurisdiction (country, state, municipality, etc.), including:

Category	Example
Expatriates / assignees	Employee on US payroll working in UK on assignment
Permanent transfers	Employee transfers from US payroll to UK payroll
Split jurisdiction/split payroll employees	Employee spends 50% of time in CA and 50% of time in NY and is payrolled in both locations
Cross-border commuter employees	Employee lives in NJ but works in NYC
Business travelers	Any employee who travels out of state/country for work
Telecommuters	Employee works for entity in CA but lives in Nevada and works from home

Mobile employee complications



- Employer may have payroll compliance obligations in multiple countries on the same income, at the same time
- Tax rules are complex, and vary around the world
- Mobility data may or may not be available
- Payroll records for non-current employment may not exist
- The list goes on...

Mobile employee complications

General rule: tax liability will arise in each jurisdiction based on time in country from grant to vest

- Example

- > Employee granted award on Jan 1, 2015 in U.S.
- > Employee moves to Germany on Jan 1, 2016
- > Employee vests in award while in Germany on Jan 1, 2018

- Period from Jan 1, 2015 – Dec. 31, 2015 = US-source
- Period from Jan 1, 2016 to Jan 1, 2018 = German-source
- Tax due in both locations and company required to report income and withhold taxes in both jurisdictions at time of taxable event

Mobile employee complications

BUT...tax rules are complex and vary:

- › Tax rules may not allow for less than 100% taxation
- › Company withholding/reporting obligations may not align with employee tax liability
 - › Company may be required to withhold on 100% of income even if tax only due on apportioned amount
 - › Company may not have withholding / reporting obligations, but employee has tax liability
- › Employee residency/nationality may impact taxation and/or employer compliance obligations
- › Social tax liability may not align with income tax liability

Risks of Non-Compliance

- **“Realistic” monetary penalties**
 - > U.S.
 - > Approx. federal penalties ~40%, state penalties 5-10% of tax amount
 - > Non-U.S.
 - > “Rule of thumb” – \$3 in company liability for every \$1 it fails to withhold
 - > Includes (i) unpaid withholding tax, (ii) gross-ups, (iii) penalties / interest
- **Criminal penalties**
 - > Country executives can be held liable for non-compliance
 - > Individual employees may be targeted on audit
- **Immigration**
 - > Individuals may be denied entry / re-entry into country unless they can prove taxes have been paid
- **HR**
 - > Poor employee experiences with taxes can eliminate “benefit” of awards

Risks of Non-Compliance – Real Examples

- Monetary penalties

- › California tax authorities requesting building entry records to track business visitors
- › New York requiring company to prove executives did not visit NY during pre-IPO period
- › New York assessing penalties for failure to withhold, even when no taxes ultimately due
- › UK immigration authorities liaising directly with UK tax authorities to identify tax compliance failures

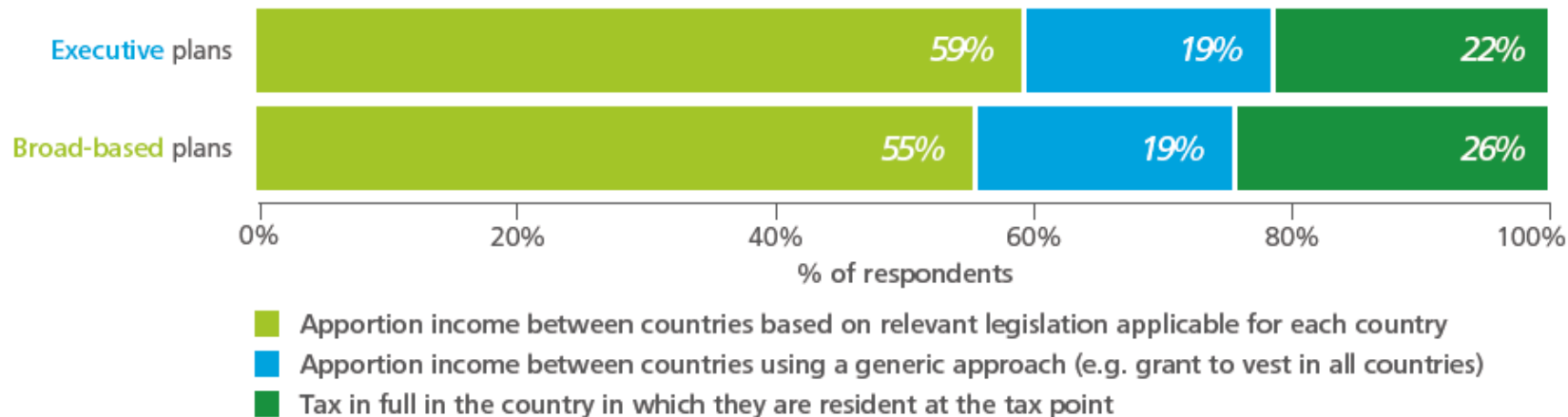
- Criminal penalties

- › Germany country manager facing criminal charges for failure to ensure tax compliance for mobile employees that left Germany
- › Former French executive facing criminal negligence charges for failure to declare gains and pay taxes (company and broker failure as well)
- › Japanese tax authorities seeking criminal penalties for executives that didn't report / pay taxes on equity income

- Immigration

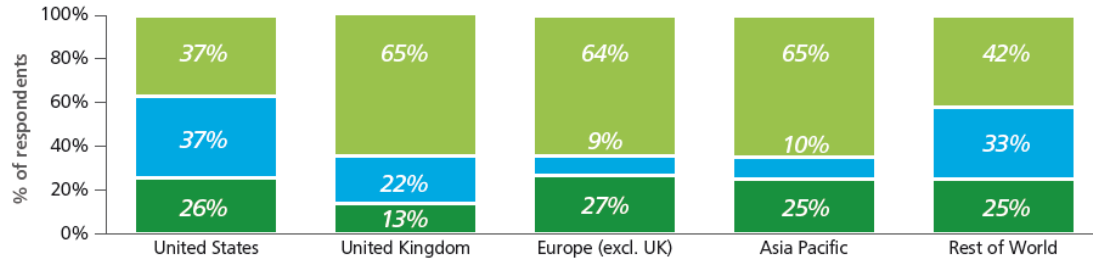
- › Employee held in Singapore airport for failure to pay taxes

What are other companies doing?

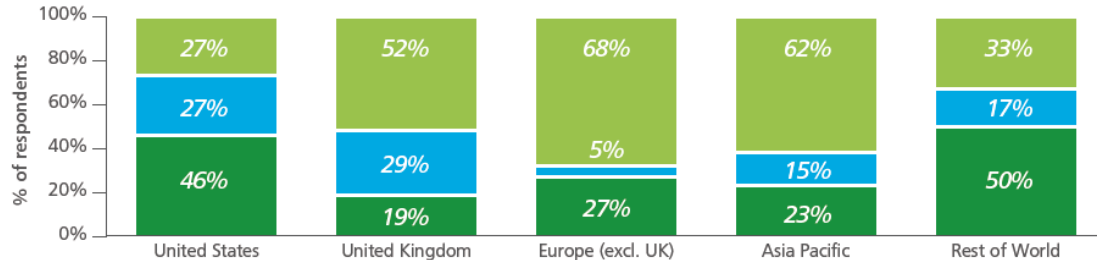


What are other companies doing?

Executive plans – What approach do you take in respect of the taxation of your plans for your mobile employees?



Broad-based plans – What approach do you take in respect of the taxation of your plans for your mobile employees?



- Apportion income between countries based on relevant legislation applicable for each country
- Apportion income between countries using a generic approach (e.g. grant to vest in all countries)
- Tax in full in the country in which they are at the tax point

Mobility compliance challenges

- **Data**
 - > Data ownership?
 - > Automation?
 - > Completeness of data
 - > System of truth / reconciliation of data mismatches?
 - > Business traveler data?
- **Tax strategies**
 - > Balancing corporate risk with employee experience
 - > Disconnects between tax withholding obligations and employee tax liability (e.g., Canada, Ireland, U.S.)
 - > Disconnect between income tax rules and social security rules
 - > Differences between taxable events / sourcing periods across countries
 - > Tax qualified plans
 - > System capabilities

Mobility compliance challenges

- **Payroll execution**

- > Disconnect between income subject to income tax vs. social tax
- > Disconnect between amount reported and amount to be withheld on
- > Reporting / remittances for employees no longer on local payroll
- > Refunding over-withholding for employees no longer on local payroll

- **Employee Experience**

- > Limiting / eliminating double taxation (or double withholding)
- > Communication
- > Lack of qualified “tax advisors”, particularly for non-US participants where tax credits must be claimed on returns

What should your company do?

Current state analysis

- Current compliance gap analysis
 - › Mobile employee data capture / tracking (permanent transfers, business travel, etc.)
 - › Current calculation approach (if any)
 - › “Covered” mobile employee populations / gaps
 - › System capabilities (data collection, tax calculations)
- Company risk profile analysis
 - › Size of mobility population (including business travelers)
 - › Presence / travel to “high enforcement” jurisdictions (U.S. (+CA and NY), UK, Germany, Singapore)
 - › Estimate size of gains / potential penalties by jurisdiction
 - › Relationship with local tax authorities
 - › Importance of equity compensation to company compensation strategy
 - › Company approach to risk

What should your company do?

Come to agreement on mobility compliance approach:

- Who's in scope?
 - › N/A – ignore mobility and only tax based on current payroll location
 - › Only assignees on company-sponsored assignment
 - › Assignees and permanent transfers
 - › All mobile employees, including business travelers
- Calculation methodology?
 - › N/A – do nothing and only tax based on current payroll location
 - › Simple apportionment
 - › Apportion in accordance with jurisdiction-specific rules

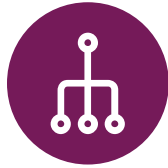
Practical Tips



Full compliance may not be achievable; nor is automation right for everyone



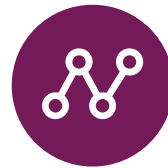
Design a supportable strategy that meets your corporate goals



Assign clear internal roles and responsibility (especially amongst HR, mobility and stock)



Identify biggest "risk" states/countries



Determine how your company will develop a process to balance the technical requirements with administrative abilities



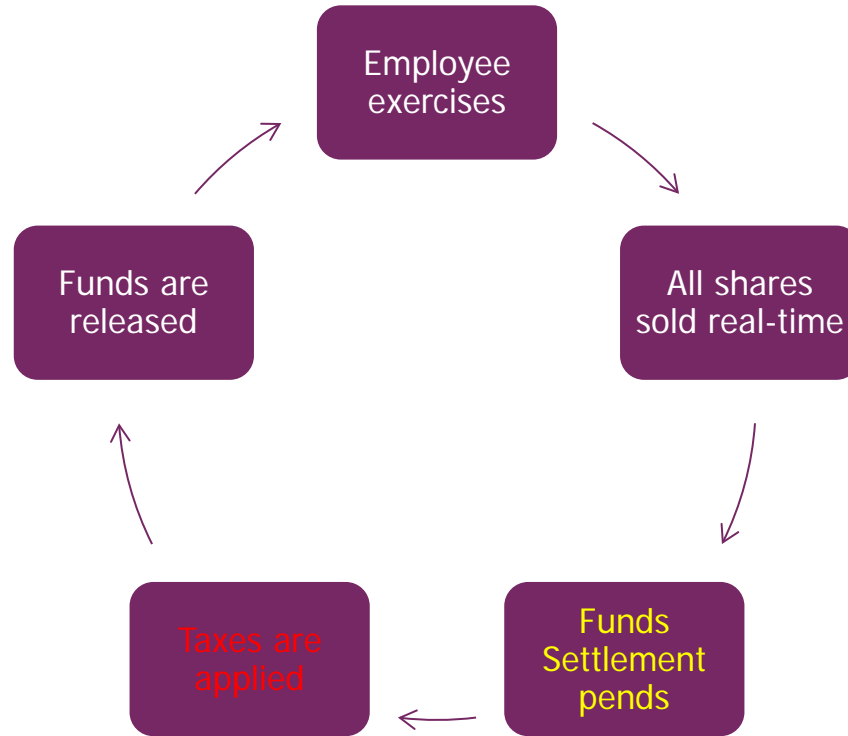
Think early about how you will deal with employee's being double taxed

Business Case

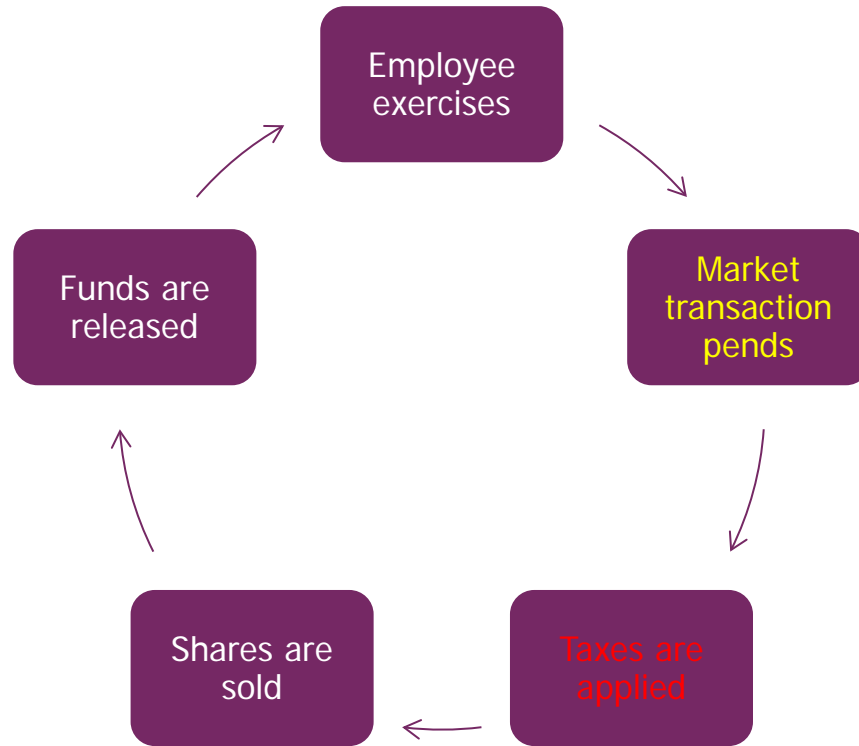
ABC Corporation:

- Grants in 50+ countries
 - Approximately 6k awards issued, annually
- Highly mobile population
- Requirements:
 - a solution to allow mobile employees to exercise stock options, while remaining compliant
 - ability to exercise real-time
 - no or minimal delay in distributing proceeds
 - work directly with tax professional (less issuer interaction)

Solution for 'Sell All' Transactions



Solution for 'Sell to Cover' Transactions



Future of Mobility Tracking



Questions

