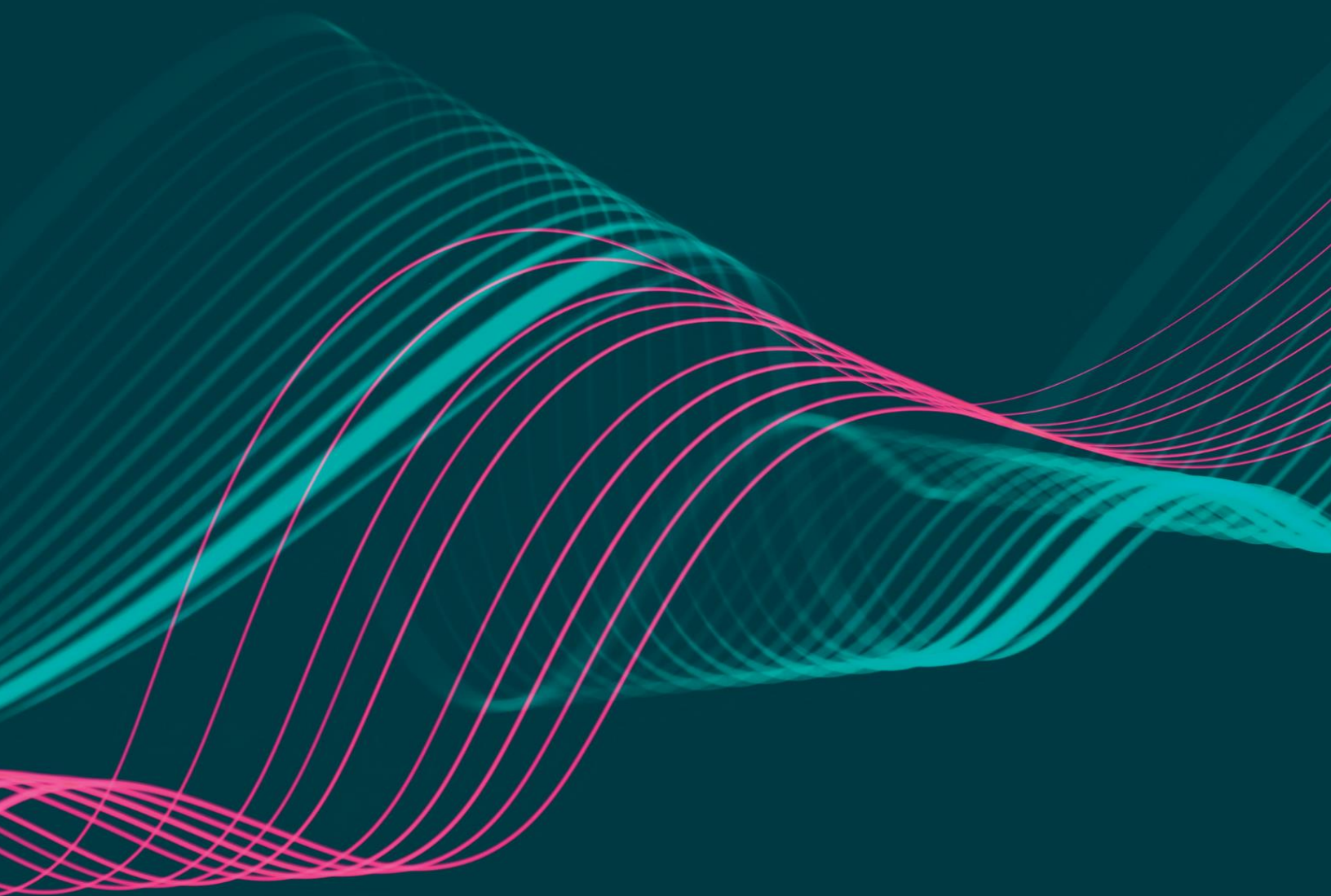




Workation

Practical information for an employer
implementing a *workation* employee benefit



What is *workation*

Questions that need to be answered before implementing *workation* into the company structure:

- How does *workation* **differ from** remote working?
- What **impact** does the regulation of remote working in Polish legislation have on *workation* abroad?
- Does it matter **from which country** an employee would like to perform the *workation*?
- Will an employee performing *workation* have **additional obligations** as a result?
- Are there any **time limits** for performing *workation* in order to retain unlimited tax liability in Poland?
- How to **regulate** *workation* in the company?
- How to avoid **tax and contribution risks** when using *workation*?

The growing trend of *workation* is a combination of remote working and vacation. It is a form of flexible working that allows people to complete their work duties from anywhere possible, without the use of holiday leave. This form of work, although distinguished in its name because of its 'vacation location', at the same time does not imply a limitation of the employee's tasks – employee should perform his or her work as agreed with the employer.

Increasingly, employers are deciding to introduce this form of benefit into the structure of their company, so as to simultaneously support employees in maintaining the so-called work-life-balance, increase their effectiveness and motivation for their work.

Naturally, as with any benefit – their introduction is associated with certain tax or contribution risks/consequences, but only if we do not complete the necessary steps before implementing them. Our aim is to give you an overview of the most important issues related to the *workation* issue, which you should familiarise yourself with and then decide to implement (or not), so that your company found appreciation even more and your employees have even more opportunities to maintain work-life-balance.



What steps should an employer take when deciding on *workation*?

When choosing to introduce *workation* in a company, the employer should take the necessary measures so that it does not expose itself to any risks associated with its employee's work abroad. This involves a number of obligations, after which employees will be able to enjoy working from a beautiful location abroad. We would like to introduce you to how to conduct the utmost diligence and, at the same time, protect yourself from unexpected tax and contribution losses or penalties for failing to comply with registration or reporting obligations in countries other than your home country.

How to do it? The following are the **basic steps** an employer should take before an employee starts *workation*.

Identifying the geographical area that can be used for *workation*, gathering background information in relation to foreign jurisdictions, verifying tax implications for the company and potential risks

Collecting the facts about the departure, verification of the employee's fulfilment of the conditions, decision on the possibility of working, verification of the relevant documents collected by the employee (including the A1 certificate), information on tax and contribution risks, description of the type and level of risk in the given jurisdiction

Employee application for remote working abroad, analysis of the application process for a particular employee – how to formulate it?

Consultation with an advisor knowing local regulations for a more in-depth analysis in case of concerns and preparation of internal documents (including *workation*), employee's statement/request

Monitoring if the employee's factual status has not changed

What are the risks on the employers' and employees' side?



TAX RESIDENCE

Opportunity to change tax residence. Limited tax liability in Poland, inter alia, if the employee stays abroad for a longer period. Then there would be a need to declare income at the place of work – in what part? Need for verification.



SOCIAL SECURITY

It is necessary to verify which social security system is applicable and whether there is an obligation for the employer/employee to register abroad. In the absence of an A1 certificate, a penalty may be imposed on the employer/employee and they may be obliged to pay the social/health insurance contributions due in the country for the period of work performed in the territory where the work is done.



TAX ESTABLISHMENT

Risk of recognition of the employer's tax permanent establishment in the territory of another country (at the place where the employee performs remote work abroad). Possible risk of registering for tax purposes at the place of work, properly allocating costs and revenues to the permanent establishment and paying advance income tax payments abroad.



ECONOMIC EMPLOYER

Possibility to recognise an "economic employer" in the context of the tax treatment of salaries for employees working outside their home country. Having an economic employer in another country excludes the application of the 183 days clause and conditions taxation in the foreign country from day 1. Risk of double taxation.



IMMIGRATION LAW

Verification whether a work and residence permit is required in the country. Performing work without a permit (if applicable) may be subject to a fine.



MINIMAL STANDARDS

Recognition of which 'minimum standards' apply in the country, e.g. salary continuation, regulations on working time, health and safety. Analysis of what laws should be applied.



REPORTING

Even when a work and residence permit is not required in the EU, reporting obligations in that country must be followed. Regulations in other countries may be subject to additional reporting requirements.



PENSION SCHEME

Analysis of whether continuation of the previous occupational retirement scheme is possible. In other countries, it is possible that a mandatory occupational pension will apply (e.g. UK).

Want to know more?

For a more detailed overview of *workation*/remote working topics, we encourage you to read the articles published on our blog. There, we often describe specific cases we have encountered in our practice:

- *Workation* as a new form of remote working and its legal and tax implications
- Who can benefit from occasional remote working and when?
- Working for a foreign employer – home office in Poland and potential tax risks (PIT, CIT)
- Whether a home office can create a permanent establishment?



We write regularly about remote working and *workation* issues, so we encourage You to visit our [blog](#).

Contact details

If You need assistance in verifying the above risks or implementing the employee *workation* benefit into Your company's structures, we invite You to contact us to discuss the planned measures. It is essential to develop concrete rules before making a decision and implementing *workation*, in order to protect yourself from potential tax, contribution or legal risks in this area.



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