

## **Procedure 23840: Payroll FAQs for Telework Occurring Outside of Virginia**

On March 17, 2020 Virginia Tech moved to modified operations including online classes for the remainder of the Spring semester. Effective August 3, 2020 VT moved to a level of modified operations. We understand that several COVID-19 restrictions are still currently in place, which may make it difficult to return to our VT campus locations. Below we address questions regarding telework employment for VT students and employees, specifically our foreign national population, as applicable to the current pandemic.

**Q1: My department made an offer of employment to an individual who is not a citizen of the United States. Due to COVID-19 restrictions, the individual cannot come to campus. Can VT employ this person abroad?**

**A1:** Virginia Tech is not registered to do business in countries besides the United States. VT has collaborated with a third party vendor, IWorkGlobal, to hire individuals until they are able to come to campus. These individuals will be employees of IWorkGlobal, not Virginia Tech. Once arrangements can be made to come to the University, the employee will transition to VT and go through the onboarding process at that time. IWorkGlobal will handle all pay and benefits until that time and *hiring departments will bear all associated costs.*

Departments who wish to explore this option should submit requests for exception and quote(s) for related hiring expenses. Route requests for T/R faculty and students to the Provost's Office, while requests for administrative faculty should be routed to Human Resources. If the proposed position is to be supported by a sponsored project or grant, documentation that the grant allows activities from a foreign location must be included in the request. A quote including base salary, costs to cover taxes and benefits mandated by the applicable country, and a monthly administrative fee will be obtained from IWorkGlobal.

Costs will vary by country and number of employees in a specific area. Generally, IWorkGlobal will only consider assignments whose length are in excess of 3 months. The costs will range from 30 – 50% of the employee's salary for the contract period.

**Q2: Can international students not physically present at a VT campus location in the United States accept or maintain assistantships?**

**A2:** No, international students must be physically present at a VT campus location in the United States in order to accept or maintain a graduate assistantship (GA/GRA/GTA). There may be limited instances where departments may wish to request an exception. Departments and students should be aware that due to complex state, legal, and tax implications for both the

University and the student, exceptions will be rare. The department, not the student, must submit a request to HR or the Provost's Office for review. The Department will bear *all* associated costs. (Please see the question regarding employing an individual who is not a citizen of the United States abroad.)

**Q3: Can an international undergraduate student telework from their home country?**

**A3:** No, international undergraduate students must be physically present at a VT campus location in the United States in order to accept or maintain any type of university employment.

**Q4: I am a foreign national employee and left the US during the COVID-19 pandemic. May I continue to work remotely?**

**A4:** Foreign national employees who leave the U.S. for more than a short amount of time should inform Payroll. Payroll will immediately assess any U.S. tax implications involved with a trip and may need to pause any U.S. tax withholding. Employees may also be subject to applicable taxes and fees in the country they are visiting.

Employees and their departments will be exposed to liability for filing fees, fines, and penalties for any employee who does not follow the applicable laws and regulations of another country. Penalty implications depend largely on the jurisdiction in which the employee is residing, with significant variation from jurisdiction to jurisdiction. Local tax and HR authorities are often unpredictable and may choose to be strict in enforcing such laws. If a department wishes to pursue an exception, VT may need to engage a local advisor to examine these risks. The costs for third party consultation will be borne by the requesting department.

**Q5: I am a U.S. citizen or U.S. lawful permanent resident and left the US during the COVID-19 pandemic. May I continue to work remotely?**

**A5:** Each country has specific rules regarding the length of stay for a U.S. employee working abroad. In many countries, a stay of more than 183 days will require filing taxes in both countries. The U.S. taxes individuals on worldwide income and depending on treaties with the U.S. and the applicable country, employees and the university may be liable for taxes and social security benefits in both countries. For this reason, VT does not allow extended stay appointments abroad. Employees are encouraged to return to campus as soon as they are able.

Employees and their departments will be exposed to liability for filing fees, fines, and penalties for any employee who does not follow the applicable laws and regulations of another country. Penalty implications depend largely on the jurisdiction in which the employee is residing, with significant variation from jurisdiction to jurisdiction. Local tax and HR authorities are often unpredictable and may choose to be strict in enforcing such laws. If a department wishes to

pursue an exception, VT may need to engage a local advisor to examine these risks. The costs for third party consultation will be borne by the requesting department.

**Q6: I hold dual citizenship with the U.S. and my home country. Am I able to return to my home country and telework?**

**A6:** Individuals who wish to exit the United States should inform their department head, Payroll and Human Resources of the plan to leave so that we can evaluate the length of stay and if necessary begin the process of transition between VT and a third party employer such as IWorkGlobal. Any length of stay greater than 183 days may necessitate such a transition. Note, transitioning to a third party employer may impact the employee's benefits and eligibility to work on certain grant funds.

**Q7: Can a department engage a foreign national abroad as an independent contractor instead of an employee?**

**A7:** The definition of independent contractor varies by country. Many countries do not allow for any type of independent contracting. Departments who wish to pursue this option should contact the Controller's Office. The Controller's Office may seek advice from a third party vendor and any associated costs will be borne by the requesting department.

**Q8: My department has employees currently abroad. What should we do?**

**A8:** Please inform HR & Payroll so that each instance can be reviewed on a case-by-case basis. Any wage or short-term appointments for foreign national employees should be ended as soon as possible. Failure to do so will put the employee and the University at risk of fines, fees, and penalties. Please keep in mind that employees must be paid for any work already performed and failure to do so will result in violations of the Fair Labor Standards Act (FLSA).

**Q9: My department has current telework agreements for employees outside of Virginia. Is there anything of which I need to be aware?**

**A9:** The Cranwell International Center and Payroll should be made aware of any international student or employee that is not currently at a VT campus location in the United States. There are specific rules associated with visa and immigration status regarding place of employment. Further, any employee located outside of Virginia may be subject to other state and local tax laws. Please have any out of state employee contact Payroll with their current work location and home location so that the applicable tax status may be applied.