Managing Cross-Border Talent Mobility When Remote Work Has Outgrown the Policy



Cross-Border Work No Longer Looks Like a Traditional Assignment

Cross-border talent mobility used to be a controlled HR process. An executive was transferred to the United States. A senior manager accepted a two-year assignment in Europe. A technical specialist was sent to support a project in another country. HR, payroll, finance, tax, immigration and legal teams were involved from the beginning because everyone understood that international work created international obligations.

That world still exists, but it’s no longer the whole story.

Today, cross-border mobility often begins with a casual request. An employee wants to work from Portugal for six weeks after a vacation. A Canadian employee asks to spend the winter in Arizona while continuing to work full time. A software developer relocates temporarily to Mexico to care for a parent. A sales leader travels into the United States frequently enough that no one is quite sure how much work is being performed there. A manager hires a contractor in another country who begins to look more like an employee. A foreign national works remotely from Canada for an employer outside Canada, then receives interest from a Canadian employer.

None of these situations may look like a formal mobility file at first. But each one can create legal, payroll, tax, privacy, benefits, immigration, classification and employment standards questions.

That’s why Canadian HR leaders need to rethink cross-border mobility. It’s no longer just an expatriate assignment issue. It’s a workforce governance issue.

Remote and hybrid work have made location more flexible, but they have also made compliance harder to see. Statistics Canada reported that 17.4% of employed people mostly worked from home in May 2025, down from 18.7% in May 2024, while the share of workers who commuted most hours rose. Even with some decline from pandemic peaks, remote and hybrid work remain a meaningful part of the Canadian labour market (globalnews.ca). The practical result is that many employees now think about work as something they can take with them.

For HR, that assumption is risky. Work can move more easily than the legal obligations attached to it.

The Policy Gap

Many employers have remote work policies, but fewer have mature cross-border mobility policies.

A standard remote work policy may say employees must maintain productivity, attend meetings, protect confidential information and comply with company rules. That may be enough when the employee works from home in the same province. It is not enough when the employee performs work from another country.

Once work crosses a border, several questions arise at once. Does the employee have the legal right to work from that country? Does the employer have payroll withholding obligations there? Does the employee's work create tax exposure for the employer? Do local employment standards apply? Are benefits and workers' compensation coverage still valid? Can company data be accessed from that jurisdiction? Does the arrangement affect immigration status? What happens if the employee is injured, becomes ill, or needs accommodation while abroad?

These are not theoretical questions. They can affect the employee and the employer quickly.

The Canada Revenue Agency's guidance on employment outside Canada states that if an employee carries out services for an employer outside Canada, the employer may have to deduct Canadian income tax from the employee's remuneration, and employees may be entitled to foreign tax credits depending on their circumstances. CRA also provides guidance on CPP, EI and payroll treatment for employment outside Canada (canada.ca).

That is only the Canadian side. The country where the employee is physically working may also have rules.

This is why "work from anywhere" cannot simply mean "work from wherever you have Wi-Fi." It needs boundaries, approvals and documented review.

Why Managers Cannot Approve Cross-Border Work Informally

The weak point in many organizations is the manager.

A high-performing employee asks to work from another country for a month. The manager wants to retain the employee and sees no operational issue. The employee will attend meetings, deliver work and stay available. The manager says yes.

From a performance perspective, the approval may seem harmless. From a compliance perspective, it may have bypassed every necessary review.

Managers should not be expected to understand immigration law, foreign payroll withholding, permanent establishment risk, local employment standards, benefits coverage, data transfer rules or workers' compensation implications. But they should know one rule: **if an employee will perform work outside their usual province or country, HR must review the request before approval.**

That rule protects the manager as much as the organization. It gives HR time to involve payroll, tax, legal, immigration, privacy, IT, benefits and health and safety before the arrangement begins.

It also protects the employee. A casual approval may create personal tax consequences, immigration problems, benefit gaps, insurance issues or confusion about which workplace rules apply. Employees may think they are asking for flexibility, but they may be taking on risk they do not understand.

A cross-border policy should make clear that no manager has authority to approve international remote work informally. Approval should come through a defined process.

Immigration and Work Authorization Are the First Gate

Immigration is often the first issue HR should check because it can determine whether the employee can legally perform work in the proposed location.

Employees sometimes assume that if they are working for a Canadian employer and not taking a local job, immigration rules do not apply. That assumption may be wrong. Some countries restrict remote work by foreign nationals even where the employer is outside the country. Others permit certain forms of remote work under visitor status or digital nomad programs, subject to conditions.

Canada itself has recognized digital nomads in its tech talent strategy. IRCC states that digital nomads working remotely for an employer outside Canada can live and work in Canada for up to six months at a time without a work permit, provided they have visitor status. It also notes that if those individuals decide to seek opportunities with Canadian employers, they may apply for a work permit or permanent residence (canada.ca).

That distinction is important. A foreign national working remotely in Canada for a foreign employer may be in a different position from a foreign national performing work for a Canadian employer. Similarly, a Canadian employee working from another country may be subject to that country's rules on whether visitors can work remotely.

HR should not provide immigration advice casually. But it should know when immigration review is needed. Any request to work from outside Canada should trigger a work authorization check for the destination country. Any foreign national working in Canada or moving into a Canadian role should trigger Canadian immigration review.

The key is to identify the issue before the employee travels, not after a border officer, payroll team or client asks questions.

Tax and Payroll Can Become Complicated Quickly

Payroll obligations do not automatically remain simple because the employer is Canadian.

Where the employee physically performs work can affect tax withholding, social security contributions, payroll reporting and local registration obligations. The employee may also become subject to personal tax filing obligations in the host country depending on duration, residency rules, treaty provisions and local law.

On the Canadian side, CRA's employment outside Canada guidance confirms that Canadian employers may still have income tax deduction obligations where employees perform services outside Canada, and that CPP and EI rules require specific analysis (canada.ca).

For HR, this means payroll and tax must be involved before cross-border work starts. A temporary arrangement of a few days may be low risk. A few months can be a different story. Repeated travel can also create cumulative issues.

There is also a corporate tax concern. In some circumstances, an employee working from another country may create permanent establishment risk for the employer, especially if the employee is negotiating contracts, managing core business activities, serving local clients, or regularly exercising authority on behalf of the employer in that jurisdiction. This risk is highly fact-specific, but HR should know

enough to flag it.

The practical rule is straightforward: the longer the stay, the more senior or revenue-generating the role, and the more client-facing or contract-related the work, the more careful the review should be.

Employment Standards May Follow the Work Location

Employees are often surprised to learn that local employment laws may apply where work is physically performed.

A Canadian employer may think the employment contract is governed by Canadian law, but another jurisdiction may still assert mandatory rights over wages, working time, vacation, leaves, termination, overtime, health and safety, or local labour protections. Within Canada, interprovincial remote work can also raise questions about which employment standards apply.

CRA has also updated guidance on determining the province of employment for payroll purposes in remote work arrangements. It explains that the province of employment may depend on whether the employee reports for work at the employer's establishment or, in certain remote arrangements, where the employee is attached to an establishment. CRA's guidance recognizes full-time remote work agreements, whether temporary or permanent, where the employer directs or allows an employee to perform duties 100% remotely at locations that are not employer establishments (canada.ca).

That example shows how even domestic remote work can create technical questions. International work is usually more complex.

HR should not assume the employment contract settles every issue. Mandatory local laws may still matter. Before approving longer-term cross-border work, HR should obtain legal advice about whether local employment laws could apply and whether contract language, policies, benefits or termination provisions need adjustment.

Benefits, Insurance, and Workers' Compensation May Not Travel Cleanly

Employees often assume that if they remain employed, their benefits remain unchanged. That may not be true.

Health benefits, disability coverage, travel insurance, workers' compensation and employee assistance supports may have territorial limits, eligibility conditions or exclusions. A benefits plan may not cover extended work from another country. Provincial health coverage may be affected by extended absence from Canada. Workers' compensation coverage may not apply in the same way if an injury occurs abroad while working remotely.

HR should not approve cross-border work without checking benefits and insurance coverage.

The practical questions are clear. Will the employee have emergency medical coverage? Does the employer's group benefits plan cover the employee while working abroad? Is disability coverage affected? Is workers' compensation coverage available? Does the employee need travel insurance? Is there a maximum duration outside Canada? Are family members covered? What happens if the employee has a medical emergency or workplace injury while abroad?

These questions matter because an employee may request cross-border work for personal reasons, but if something goes wrong, the employer will still be expected to respond.

A strong mobility policy should require benefits and insurance review before approval and should make clear what the employer will and will not cover.

Privacy and Cybersecurity Are Not Side Issues

Cross-border work can create privacy and cybersecurity risks that HR may not immediately see.

An employee working from another country may access employee records, customer data, financial information, confidential business information, health information, trade secrets or client systems. That access may occur over local networks, from shared accommodations, through foreign internet infrastructure, or in jurisdictions with different privacy laws and government access rules.

Canadian privacy obligations may still apply, but data may also become subject to laws in the host jurisdiction. If the employee handles personal information, HR should involve privacy and IT teams before approving the arrangement.

Questions should include whether the employee will access sensitive data, whether the destination country creates heightened cybersecurity or data transfer risk, whether company devices and VPN access are required, whether local data storage is prohibited, whether the employee can work from public Wi-Fi, and whether additional controls are needed.

This is especially important in sectors such as health care, financial services, insurance, technology, education, professional services and any organization handling sensitive personal information.

The employee may think the request is about location. The organization must also think about data.

Health and Safety Duties Still Matter

Remote work does not eliminate health and safety obligations.

The scope of employer obligations will depend on jurisdiction, the nature of the work and the legal framework that applies. But HR should not assume that an employee working abroad is outside all workplace safety considerations.

At minimum, the employer should consider ergonomic setup, work hours, emergency contact information, local medical access, travel safety, workplace violence or harassment concerns, and whether the work can be performed safely from the proposed location.

For federally regulated workplaces, harassment and violence obligations may also remain relevant where employees work remotely. Federal guidance on the Work Place Harassment and Violence Prevention Regulations states that federally regulated employers must understand harassment and violence, develop a prevention policy, assess risks and provide training (canada.ca).

That matters because cross-border remote employees are still part of the workplace. They can experience harassment, violence, isolation, digital hostility or safety concerns even when they are not physically in the office.

A mobility approval process should therefore include a health and safety check, especially for longer arrangements or higher-risk locations.

The Contractor Trap

Cross-border talent mobility is not limited to employees. Many Canadian employers engage contractors in other countries because it feels simpler than hiring abroad.

That can be useful, but it also creates misclassification risk.

A worker may be called a contractor, but if the organization controls their schedule, directs their work, integrates them into teams, provides tools, restricts outside work and treats them like an employee, the label may not hold. The risk can arise under Canadian law or the law of the worker's jurisdiction.

The Supreme Court of Canada's decision in **Uber Technologies Inc. v. Heller** is not a cross-border mobility case in the traditional sense, but it is highly relevant to the contractor-risk conversation. The Court held that an arbitration clause requiring an UberEats driver to arbitrate disputes in the Netherlands was unconscionable and invalid. The case allowed the driver's proposed class action, which included claims about whether drivers were employees rather than independent contractors, to proceed in Ontario (scc-csc.ca).

The practical lesson is that Canadian courts will look beyond formal contract structures where access to employment rights is at stake. For HR, this is a warning. Cross-border contractor arrangements should be reviewed carefully, especially where contractors are long-term, exclusive, integrated into the business or managed like employees.

Employer-of-record arrangements can help in some situations, but they are not magic. HR still needs to understand who controls the work, who employs the worker locally, what obligations exist, and how the arrangement will be managed.

Accommodation and Human Rights Can Complicate Mobility Requests

Not every cross-border mobility request is about lifestyle. Some are connected to family, disability, caregiving, religion, domestic violence, medical treatment or other protected grounds.

For example, an employee may ask to work from another country temporarily to care for a parent. Another may need to accompany a child receiving medical care. Another may request a temporary relocation after domestic violence. Another may ask to work remotely from a different jurisdiction because of disability-related needs.

HR should not treat every request as either automatically discretionary or automatically protected. It should assess whether human rights obligations may be engaged.

The family status analysis in **Canada v. Johnstone** remains useful in this context. The Federal Court of Appeal recognized that childcare obligations can, in appropriate circumstances, engage family status protection under the Canadian Human Rights Act (leaf.ca). While cross-border work raises additional legal and operational issues, the case is a reminder that employee mobility requests may sometimes involve protected caregiving responsibilities rather than convenience alone.

That does not mean an employer must approve international remote work as accommodation in every case. Immigration, tax, payroll, benefits, safety, privacy and operational risks may limit what is reasonable. But HR should conduct a structured analysis before denying the request.

The right answer may be another form of accommodation: leave, temporary schedule

adjustment, domestic remote work, reduced hours, modified duties, or another workable option.

A Cross-Border Mobility Framework HR Can Use

Canadian employers need a clear approval framework for cross-border work.

The framework should begin with categories. HR should distinguish between short business travel, temporary remote work from another province, temporary remote work from another country, longer international remote work, formal assignment, permanent relocation, foreign hiring, contractor engagement and employer-of-record arrangements.

Each category should have different review requirements. A two-day business trip is not the same as four months of remote work from another country. A permanent relocation is not the same as a short accommodation-related request.

The framework should require employees to disclose the proposed work location, dates, immigration status, citizenship or work authorization issues, nature of work, client-facing duties, contract authority, data access, equipment needs, time zone, family or accommodation context, and whether they expect the arrangement to be temporary or ongoing.

HR should then route the request through the right checks.

- Immigration should confirm whether the employee can legally work from the proposed location.
- Payroll and tax should assess withholding, social security, residency, treaty and permanent establishment risks.
- Employment law should assess whether local employment standards or mandatory protections may apply.
- Benefits should confirm health, disability, workers’ compensation, travel insurance and EAP coverage.
- IT and privacy should assess data access, cybersecurity and cross-border privacy concerns.
- Health and safety should assess remote work conditions, emergency procedures and any country-specific risks.
- The manager should confirm operational feasibility, performance expectations, communication requirements and role suitability.

Approval should be documented with start date, end date, permitted location, work hours, equipment requirements, confidentiality obligations, review date, reporting requirements and a clear statement that extension requires further approval.

The Policy Should Say What Happens If Employees Do Not Disclose Location

A cross-border mobility policy needs consequences for non-disclosure.

Some employees may not think it matters if they work abroad for a few weeks. Others may avoid asking because they expect denial. Some may believe that as long as work gets done, location is private.

The policy should make clear that employees must disclose and obtain approval before performing work outside their normal jurisdiction. Failure to do so may create immigration, tax, payroll, privacy, benefits and safety risks for both the employee and employer and may lead to discipline.

That said, HR should also make the approval process reasonable. If employees believe

every request will be automatically denied or buried in bureaucracy, they may avoid disclosure. A transparent process encourages employees to come forward early.

The message should be: *we will consider requests, but we need to review them properly before approv*al.

Cross-Border Mobility Should Be Reviewed Regularly

A temporary arrangement can quietly become permanent if no one tracks it.

An employee approved for four weeks abroad asks for two more weeks, then another month. A contractor engaged for a short project remains embedded for two years. A business traveller begins visiting the United States so often that the travel pattern changes. A remote worker approved in another province moves again without telling anyone.

HR should track approved arrangements and review them before expiry. The review should ask whether the employee is still in the approved location, whether the dates have changed, whether the work has changed, whether tax or immigration thresholds are approaching, whether performance is stable, whether benefits coverage remains valid and whether the arrangement should end, extend or convert to another model.

This is where a central mobility register can help. HR should know where employees are working, for how long and under what approval.

Without that register, the organization is relying on memory.

The Employee Experience Matters Too

A cross-border mobility process should not feel like HR is simply blocking flexibility.

Many requests are legitimate. Employees may want to care for family, manage immigration transitions, maintain relationships, reduce commuting pressure, travel temporarily, pursue development, or remain employed while managing life circumstances. Employers that can support mobility thoughtfully may improve retention and attract talent.

But good support requires honesty. Employees need to understand that cross-border work may affect taxes, immigration, benefits, insurance, data security and employment rights. They should not be surprised later by payroll deductions, foreign filing obligations, denied insurance claims or immigration questions.

A good process protects the employee by identifying those issues before they become problems.

That is how HR should frame the policy. The goal is not to control employees unnecessarily. The goal is to make sure flexibility does not create hidden risk.

The HR Takeaway

Cross-border talent mobility is no longer limited to formal expatriate assignments. It now appears in remote work requests, hybrid arrangements, family-related relocations, contractor engagements, business travel patterns, foreign hiring and work-from-anywhere expectations.

Canadian HR professionals need to treat this as a governance issue.

The central rule is simple: once work crosses a border, HR should assume more than one legal system may be involved. That means immigration, payroll, tax, employment standards, benefits, privacy, health and safety, and classification may all need review.

The organization does not need to reject every request. But it does need to stop approving them casually.

A strong cross-border mobility framework gives employees a path to request flexibility, gives managers clear limits, gives HR a review process and gives the organization a defensible record.

Remote work may have outgrown the old policy. HR’s job now is to build the next one.