PEOS & EORS

A guide to using Professional Employer Organizations and Employers of Record when expanding and hiring in new countries

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EXEC SUMMARY

As companies expand, it often makes sense to recruit abroad to take advantage of a broader range of skill sets and experience and even make cost savings in some areas. Taking on international talent, however, is not a simple process. You will need to consider varying employment laws, taxation, and other legal obligations around the world.

This is why Professional Employer Organisations (PEOs) and Employers of Record (EORs) exist; to help businesses deal with the complexities of international hiring and employment and make global business expansion easier. So we've outlined some important considerations you will need to make and key differences between these types of organizations that are worth knowing.

This guide will help you make an informed decision.

Judith Lamb, Chief Human Resources Officer

WHAT ARE PEOs AND EORs?

PEO

A Professional Employer Organization (PEO) is an outsourcing firm that helps companies hire internationally.

PEOs enter into a joint-employment relationship with companies by effectively 'leasing' employees to them. This allows the PEO to share and manage many employee-related responsibilities and liabilities, enabling organizations to outsource their human resource functions, such as employee benefits, compensation and payroll administration, workers' compensation, and employment taxes.

In co-employment, the PEO becomes the 'employer of record' for tax purposes, filing paperwork under its own tax identification numbers, whilst the client company continues to direct the employees' day-to-day activities. The PEO charges a service fee, typically between 3% and 15% of the total gross payroll.

The term 'PEO' is generally only used in the United States, as the co-employment model doesn't exist outside the USA and is considered illegal in some countries such as Switzerland and France.

PEOs fulfill a similar, although less comprehensive, role compared to an Employer of Record (EOR).

EOR

Companies based outside of the United States tend to use Employers of Record (EOR) organizations instead.

They are sometimes referred to as Global PEOs, but strictly speaking, are not actually PEOs. EORs offer similar services to a PEO, but unlike a PEO, an EOR does become the legal employer for their client's remote workers in the country they offer the service in.

While PEOs focus on particular HR and payroll tasks, they don't represent or act on behalf of client companies. Whereas EORs do act on behalf of client companies, employing talent for their clients via a service agreement. This means that EORs take on the added responsibility of complying with local employment laws for their clients.

EOR organizations are also referred to as Global PEOs, International PEOs, Local Employers, Local Partners, Local EORs, Employer Leasing Services (Germany), or Foreign Enterprise Service Companies (China).

	PEO	EOR
HR tasks – payroll, benefits, and tax deductions	Yes	Yes
Employs staff on your behalf	No	Yes
Responsible for international compliance	No	Yes

PEO = Professional Employer Organization

EOR = Employer of Record (Outside US)

PEOs and EORs aren't always treated the same from country to country.

WHAT IS THE DIFFERENCE?

Both PEOs and EORs offer a consultancy-like service to companies based in other countries for local employment needs. Some places make no legal distinction between PEOs and EORs, yet in others, like France, the PEO model isn't legal, but EORs are widely used. In China, PEO and EOR services are called Foreign Enterprise Service Companies (FESCOs).

SUMMARY OF DIFFERENCES BETWEEN PEOS AND EORS

- Both PEOs and EORs manage HR tasks, including payroll, employee benefits, and tax deductions.
- With an EOR, they are the legal employer. With a PEO, you are the legal employer.
- You take full responsibility for compliance with local labor laws when you hire a PEO.
- Working with a PEO is more affordable than an EOR if you already own a legal entity in the country (and are based in a country where PEOs are an option.)
- If you do not already own an entity, working with an EOR is more affordable than opening a new entity in the short term.
- EORs help with the termination of remote worker contracts; PEOs do not.
- PEOs mostly handle HR functions for businesses, while EORs go one step further to employ workers on behalf of their client companies.

WHY USE A PEO OR EOR SERVICE?

PEO and EOR services are used by many types of organization from multi-national enterprises to start-ups. Here's why...

The principle behind the operation of these outsourced employment organizations is a simple one. Imagine you have just discovered that a line manager has authorized four employees to work from home in Spain when your business is based in the UK. In order to meet all of your tax, social security, and employment law obligations (never mind corporate tax issues), there will be significant administration to undertake – it could take up to 12 weeks to create a Spanish entity and complete the necessary registrations.

The EOR offers a simple alternative. Your employees are hired through the EOR and become their employees rather than yours. The structure differs from a traditional employment agency as it specifically considers long-term employment rather than the traditional uses of agency temps to cover specific projects or short-term staff shortages. In effect, the EOR leases out staff to the end client.

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WHAT SERVICES DO THEY PROVIDE?

The aim is to take away all of the administrative tasks associated with employment, and a typical scope of services would cover the following items.

Human resource management

All aspects of HR administration including onboarding and existing employees. However, the end client usually retains the final say in how staff are hired and fired.

Health and safety

If you have employees working from home, this makes their home a workplace. In some jurisdictions, this might mean the employer must carry out regular physical inspections of the work area and equipment used.

Payroll administration

This should cover all aspects of the payroll process, including the gross-to-net calculation, payroll reporting, remittance of taxes to the authorities, and of course, the delivery of net pay to the employees. A PEO or EOR can be particularly useful if a jurisdiction requires salaries to be paid from a bank account held in that country.

Workers' compensation insurance and employers' liability insurance

The PEO or EOR will source appropriate cover for the workforce and present the various options available in a country.

Appropriate retirement benefits

Many pension plans will not want (or even be able) to operate across borders into another jurisdiction. The PEO or EOR will be able to suggest appropriate structures to select to ensure the employees are covered.

Workforce management

Time and attendance tracking, accident reporting, and compliance reporting regarding employees' employment law rights grow ever more complicated. The PEO or EOR should be in a position to offer the most modern and compliant systems available in a particular marketplace and at a price the client (as a small entity) would struggle to achieve.

Training and development

Many countries now require employers to actively track and offer continuous professional training opportunities. PEOs and EORs will ensure training and development is offered to the employees they recruit on your behalf.

CONSIDERATIONS AROUND THE PEO/EOR MODEL

The main benefits

COMPLIANCE

COST SAVINGS

SPEED

Keep in mind

COST

EMPLOYEE EXPERIENCE

SECURITY

BENEFITS OF THE PEO/EOR MODEL

COMPLIANCE

The number one reason that your organization is likely to consider the PEO/EOR model will be compliance. Wherever the company operates in the world, there will be complex tax, social security, and employment legislation to follow. If you do have just four people working from home in Spain, who in the business will be prepared to learn everything you need to know about Spain just to administer four employees? The language barrier should also not be underestimated – would your company feel happy dealing with Spanish officialdom in Spanish?

COST SAVINGS

Adopting the PEO/EOR model can also lower certain costs for the business. PEOs are often able to offer significantly lower premiums for mandatory coverage, for items such as workers' compensation cover or health insurance by virtue of the total headcount they process – something that a small organization with four employees could not hope to replicate.

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SPEED

The need to move quickly may prompt the initial use of PEO/EOR arrangements. It may take some months to set-up a new organization, and the frustration of the inevitable to-ing and fro-ing to arrange this may be a call too far on your company's resources. PEOs will offer tailor-made solutions ready to go immediately.

The size of your operation does matter, and PEOs/EORs are certainly a useful option to consider when headcount is low in a particular country. To return to the theme of cost, consider a gross payroll of say US$ 250,000 pa covering a handful of employees. If the PEO/EOR were operating on a 7% service fee, the true cost of outsourcing all the administrative hassle would be $17,500 pa – could you get the same level of expertise internally by spending that amount? Conversely, that does not mean that the arrangements are not suitable for larger organizations – volume will usually see the PEO/EOR margin being reduced, and the benefits of offloading the compliance responsibilities might justify the costs involved.

KEEP IN MIND

COST

The positive cost argument can also work in reverse - once we have, say, 100 employees in a country, perhaps the margin charged would justify hiring internal experts and doing it all for ourselves. Remember that there will still be some HR work to do, not least approving the hiring suggestions of the PEO/EOR.

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EMPLOYEE EXPERIENCE

The majority of businesses would see their employees as one of their most important assets. But if you use a PEO or EOR, remember these people are no longer your people – they are employed by the PEO/EOR. How much control and influence will you have over essential processes and people at the PEO or EOR? Your business is also likely to have a unique culture which is important to how you deliver service to your customers and do things. How much of this culture will be passed on effectively to the employees when they are housed in a PEO/EOR structure, or will the culture of the PEO/EOR (which could be quite different from your company) prevail? And will the act of bypassing your own HR department somehow diminish the value of your own team?

From a purely legal perspective the staff are employed by the EOR and not the engaging organisation.

For this reason companies have found it beneficial to make sure employees identify with the hiring company.

Many companies find it useful to include PEO/EOR employees when they run town halls, team building days and social activities.

SECURITY

You will also be trusting the PEO/EOR to have all of the appropriate security arrangements and controls that you would expect to be in place on key HR and payroll systems. To ensure that you work with a reputable partner, check that they have membership of an appropriate industry body such as the Employers Services Assurance Corporation (esac.org) or National Association of Professional Employer Organisations (napeo.org).

Ensure that your security requirements are built into your agreement with the PEO/EOR organisation.

OTHER CONSIDERATIONS

You take full responsibility for compliance with local labor laws when you hire a PEO.

Local time limits and laws

Some countries limit the length of time businesses can use PEO/EOR services. Germany, for example, limits EOR arrangements to 18 months. And the laws are likely to change in some countries. Mexico recently passed a law that prevents the outsourcing of core economic activities, which limits the use of EORs.

Numbers of employees and their roles

Although most countries don’t set a maximum number for EOR workers, it starts to become risky when you employ several workers for more than a year in some countries as they might require a legal, tax-filing entity.

The rules differ around the world (and sometimes vary depending on employee roles), so it’s impossible to say how many employees you can hire through an EOR or PEO organization before you become a ‘taxable presence’ or ‘permanent establishment’. It is worth checking these rules, so you are ready to transfer or TUPE these employees into your own entity in the future, when you reach this critical mass.

ALTERNATIVE OPTIONS

Non-Resident Employers (NRE)

A non-resident employer is any business that is permitted to operate in a third-party country outside of its home market. It is a status given to employers that do not have permanent residency within their target country and that work with non-resident employees. The biggest benefit gained from having international employer status is the income tax savings generated for non-resident employees.

NREs are not allowed in all countries however and are usually limited to less than 10 employees.

Representative offices

A representative office is an office established by a company or a legal entity to conduct marketing and other non-transactional operations. Representative offices are generally easier to establish than a branch or subsidiary, as they are not used for actual "business" (e.g. sales) and therefore less regulated.

Setting up a rep office is more cost-efficient than using an EOR or PEO and easier to set up than a local entity, but limited in scope and not allowed in all countries.

Set up a legal entity

Setting up a legal entity in the country you are planning to expand into will allow you to hire locally without all the restrictions imposed on PEO, EOR, and representative offices. So is usually considered the best long-term solution for most organizations looking to hire more than 10 employees in another country.

OPTIONS	DESCRIPTION	CONSIDERATIONS
Professional Employer Organisation (PEO)	Outsourced HR and payroll support including benefits and tax deductions.	Quick and easy. Not allowed in some countries.
Employer of Record (EOR)	Outsourced employment of the individuals in countries where the company does not have an entity. Service scope includes payroll + benefits + employment.	Quick and easy. Individuals are employed by a third party. Not allowed above a certain head count in some countries.
Non-Resident Employer (NRE)	A business that is permitted to operate in a third-party country outside of their home market. Employers register in the foreign country so they can hire employees locally.	Quick and easy. Not allowed in all countries or above a certain headcount. Additional HR support may be required.
Representative Office	An office established by a company or a legal entity to conduct marketing and other non-transactional operations.	Relatively quick and easy. Not allowed in all countries. Very limited.
Entity setup	The legal means of protecting the business owner in a tax compliant manner, allowing you to hire employees locally.	Fewer restrictions. More cost-efficient in the long term. Takes time to set up. Requires a bank account in the country. Ongoing compliance regulations.

CHECKLIST FOR YOUR BUSINESS

Using a Professional Employer Organisation or Employer of Record can be a quick route to moving into a new operating jurisdiction in a compliant, professional, and cost-effective manner. But tends to only be cost-effective for a limited period of time and is subject to ever-changing rules and regulations around the world. So make sure you check the latest rules before hiring the services of an employment outsourcing company.

Checklist

- ✓ Check what alternatives there are – for example, can you use the services of an associated company within your group to act as a host employer?
- ✓ Review the proposed statement of work carefully – will it cover everything, and what will you be responsible for?
- ✓ Check out the proposed PEO – run background checks, ask to see audit reports and also security agreements on key operating systems.
- ✓ Check the price carefully. What services are extra, and are you clear on what these will cost?
- ✓ Understand the exact operating model – make sure you understand how the monthly funding works. If a PEO/EOR does not have cleared funds in advance of pay, they won't usually pay the employees!
- ✓ Do you own a legal entity in the country where the employee lives? To employ workers in a country where you don't own a legal entity, you will need an Employer of Record.

Ensure you consider the key differences between these types of organizations.

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