1 July changes to Australia’s Skilled Migration programme
Insights and strategies to manage your foreign national workforce
Agenda

• History and key observations
• What happened between April and June
• Changes to the sc457 program
• Changes to company sponsored permanent residence
• Other 1 July immigration changes
• Taxation considerations
• Questions
History
Temporary Skilled 457 visa

- 1997: 457 visa introduced
- 2001: 457 visa introduced
- 2014: 457 visa Integrity Review
- 2018: Temporary Skilled Shortage visa introduced

Events:
- Terror Attacks
- Global Financial Crisis
- Mass movement of displaced persons
### Key observations

1. **Demand driven visa program**
   - The success of the 457 visa program is built on it being demand driven. This is unlikely to change but careful management is required around workforce planning.

2. **Occupational lists**
   - Short and medium/long term occupational lists will be regularly reviewed and updated.
     1. Short
     2. Medium
     3. Long

3. **Lobbying Government does have an impact**
   - Business has a voice. Deloitte will have a direct dialogue with Government & also work with the Business Council of Australia.

4. **Labour Agreements may open pathways**
   - Where changes have an adverse impact on a business look to negotiate concessions.

5. **Beware of decision triggers**
   - Talent makes career decisions based on a variety of factors – impacts on permanent residence pathway and Citizenship changes may influence career direction.
Eligible skilled occupation lists

36 occupations added to the lists

12 occupations removed from the lists

9 of the removed occupations were eligible for sc457 and sc186 visas

Movement between STSOL and MLTSOL
Inapplicability conditions

• Conditions now apply to 67 occupations
• Impact sc457 and sc186 direct entry applications only
• sc186DE applications lodged on or after 1 July
• sc457 applications lodged on or after 1 July, or lodged and not yet decided as at 1 July
• Three main groups:
  ➢ Group A: work experience only
  ➢ Group B: regional location only
  ➢ Group C: occupation specific caveats
Exemption from English language test on the basis of salary removed.

English language test results must be provided unless the visa applicant has:

- A valid passport issued by either the UK, USA, Canada, NZ or Ireland; or
- Employment with an overseas business who is coming to Australia to work for that company or their associated entity and they have a nominated base rate of pay of at least AUD$96,400; or
- Completed a minimum of five years of full-time study in a secondary and/or higher education institution where the instruction was delivered in English.
Character

- Police clearance certificates are mandatory

- Military record or discharge certificates are required, plus police certificates from the countries of service
Visa validity

- Maximum visa validity for occupations on the STSOL is 2 years, unless a longer period is required to meet international trade obligations.
- Maximum visa validity for occupations on the MLTSSL is 4 years.
Training benchmarks

Skilling Australians Fund (SAF) comes into effect from 1 March 2018.

Business with a turnover of *less* than AUD$10 million per year will pay:

- AUD$1,200 per TSS visa per year
- AUD$3,000 for each ENS or RSMS application

Business with a turnover of *more* than AUD$10 million per year will pay:

- AUD$1,800 per TSS visa per year
- AUD$5,000 for each ENS or RSMS application

Sponsorship and 186 nomination applications lodged from 1 July, must satisfy a new training instrument which:

- Defines payroll
- Clarifies acceptable and non-acceptable training expenditure
- Outlines the training expenditure period
Sponsorship Accreditation

• Expanded to accommodate certain low risk sponsors
• Further reduce 457 processing times
• Benefits of accreditation are:
  ✓ sponsorship validity of six years
  ✓ priority allocation of all nomination and visa applications
  ✓ additional streamlined processing of certain low risk nominations.

The new accreditation characteristics are divided into four categories:

**Category 1**
Australian government agencies

**Category 2**
Approved Australian trusted traders

**Category 3**
“low risk” with low volume usage of the 457 programme and at least 90% Australian workers

**Category 4**
“low risk” with high volume usage of the 457 programme and at least 75% Australian workers
Employer Nomination Scheme (ENS) and Regional Sponsored Migration Scheme (RSMS)

**English language requirements**

Exemption from providing an English language test for applicants whose salary is in the top tax bracket removed.

**Acceptable means of demonstrating English:**

- A valid passport issued by either the UK, USA, Canada, NZ or Ireland; or
- Employment with an overseas business who is coming to Australia to work for that company or their associated entity and they have a nominated base rate of pay of at least AUD$96,400; or
- Completed a minimum of five years of full-time study in a secondary and/or higher education institution where the instruction was delivered in English.
ENS and RSMS

Skill exemption

- Exemption from a skills assessment for nominated earnings at least equivalent to the current ATO top individual income tax rate removed

Age

- Direct entry applicants must be below the age of 45 at time of application
- Current age exemptions will still be available
- TRT stream applicants must be below the age of 50 at time of application (valid until March 2018)

Genuine need

- Nomination must identify a ‘genuine need’ for the nominee to be employed in the nominated position
- Nominee must work under the direct control of the nominator as a paid employee
- Details of the nominee must be included in the nomination
Other immigration changes

New Zealand Pathway

- NZ citizens usually resident in Australia on or before 19 February 2016
- resided in Australia for at least 5 years
- minimum taxable income requirements
- mandatory health, character and security checks
- pathway to citizenship after a period of 12 months
Other immigration changes

**Visitor visa application**
Indian passport holders can now lodge Visitor (Subclass 600) visa applications online.

**Visitor visa priority consideration**
Certain passport holders will be able to apply for online priority consideration service for visitor visa applications.
Eligible countries are – China, India and UAE.

**APEC Business Travel Card**
Australian citizens can apply online for an APEC Business Travel Card from 1 July.

**Working holiday and work and holiday visas**
Age limit increased to 35 or under, for certain passport holders.
Tax considerations

Fringe Benefits Tax considerations

• The Australian Taxation Office accepts that the costs of obtaining a visa can form part of relocation travel. When an employee is working on an assignment and is regarded as living-away-from-home for a temporary period or has relocated permanently, these benefits are exempt from FBT.

• Renewal of visa’s or applying for a different visa that is not associated with relocation travel will result in an FBT liability

• Such costs would include English tests and Police clearances

• No impact on PAYG Withholding, Superannuation Guarantee, Payroll Tax or WorkCover

Training Benchmarks

• Payments to the Skilling Australia fund would not be expected to be subject to FBT as the assignee does not receive any benefit resulting from the requirement for the employer to make the contribution. It would be expected to be deductible to the employer

Australian Tax File Number

• Links with visa application

• Ongoing global data matching between tax and immigration authorities
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