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Australia Abolishment of 457 visa program

Overview

On April 18, 2017, Prime Minister Malcolm Turnbull announced the abolishment of the subclass 457 visa program. This announcement follows lengthy reviews and in-depth analysis of the subclass 457 visa program over recent years, and has been labelled as a government strategy to put "Australians first." The changes to the immigration program focus on Australian companies filling jobs with local talent before looking to foreign talent to fill those roles.

While specific legislation changes are yet to be released, it has been confirmed that the current subclass 457 visa program will be replaced with a new program for temporary skilled migrants – the Temporary Skill Shortage (TSS) visa. The TSS visa will be specifically designed to recruit "the best and brightest," with more stringent eligibility thresholds and significant changes to the way these visa holders can transition to permanent residence.

The implementation of these reforms will begin immediately and will be completed by March 2018. Implementation of the changes will be phased as follows:

Changes introduced beginning April 19, 2017

- The Consolidated Sponsored Occupation List (CSOL) will be renamed the Short-term Skilled Occupations List (STSOL) and will be updated every six months based on advice from the Department of Employment.
- The existing CSOL occupation list will be significantly condensed from 651 to 435 occupations, with 216 occupations removed and access to 59 other occupations restricted.
- The Skilled Occupations List (SOL) will be renamed the Medium and Long-term Strategic Skills List (MLTSSL).
- The maximum duration of subclass 457 visas issued from 19 April, 2017, for occupations that are on the STSOL will be two years. Occupations on the MLTSSL will continue to be issued for a maximum duration of four years.
- It is important to note that current subclass 457 visas will remain in effect. However, applicants who have submitted a subclass 457 visa application prior to 18 April, 2017, which has not yet been approved and whose nominated occupation was removed from the STSOL, will be ineligible for the subclass 457 visa. A refund of application fees may be requested.

Changes introduced beginning July 1, 2017

- Occupation lists will be further reviewed based on advice from the Department of Employment, as well as outcomes from the Department of Education and Training's 2017-18 SOL review.
- The current English language salary exemption threshold, which exempts applicants whose salary is over \$96,400 from the English language requirement, will be removed.
- Policy settings about the training benchmark requirement of sponsoring employers will be revised and clarified in legislative instruments.
- Provision of penal clearance certificates will become mandatory for all applicants in this visa program.

Changes introduced by December 31, 2017

- Greater data-matching between the Department of Immigration and Border Protection (DIBP) and the Australian Taxation Office (ATO) will commence, including the collection of tax file numbers by the DIBP and verification that sponsored employees are paid per the salary in their nomination application.
- The DIBP will begin to publish details of sponsoring companies sanctioned for failing to meet their sponsorship obligations and other immigration legislation.

Changes introduced by March 2018

- The subclass 457 visa will cease to exist and will be replaced by two visa streams under the TSS:
 - A short-term stream of two years with the capacity for only one onshore visa renewal. This stream will not lead to permanent residence.
 - A medium-term stream of four years, with the capacity for visa renewal onshore and a permanent residence pathway after three years.
- Government lodgement fees will increase considerably (\$1,150 for the short-term visa, and \$2,400 for the medium-term visa) from those charged under the current subclass 457 visa program.
- The threshold level of experience required by visa applicants will be increased – all applicants must have at least two years' experience in their skilled occupation.
- A greater focus to be placed on using the new visa to fill gaps in regional employment – several concessions will be available to regionally sponsored applicants.
- Labour market testing (LMT) will be mandatory unless an international obligation applies.
- The introduction of strengthened training requirements for all sponsoring employers.

Changes to permanent residence

Pathways to permanent residence under the subclass 186 ENS and subclass 187 RSMS visa categories are also set to be greatly impacted, with the following significant changes:

- New applicants will be impacted by the changes to CSOL and will transition to the STSOL effective April 19, 2017.
- Tightening of English language proficiency requirements from July 1, 2017.

- From March 2018, there will be a requirement for applicants to have at least three years' work experience before they are eligible for permanent residence.
- The permanent residence eligibility period will increase from two years to three years.
- From July 1, 2017, applicants under the direct entry stream must be under 45 years of age at the time of application. Applicants under the temporary residence transition stream will continue to have a maximum age requirement of 50 at time of application. All applicants must be under the age of 45 to be eligible to apply for either stream of ENS or RSMS beginning March 2018.

Deloitte's view

These fundamental changes to Australia's immigration framework will create significant uncertainty for businesses in the short term. There are immediate ramifications of these changes on businesses who access top talent or utilise the program to fill skills shortages with foreign nationals. These changes will affect both subclass 457 visa applications currently under consideration with DIBP and future applications for existing Subclass 457 visa holders.

We also note that there will be a tightening of LMT and Deloitte is hopeful that intra-company transfers will fall under an exempt category. In many cases, intra-company transfers are fundamental to the success of a business, via the transfer of skills and knowledge to local employees not readily available in Australia.

Deloitte supports measures which enhance the integrity of the Australian immigration program and met the needs of Australian businesses. The changes announced today still provide Australian companies with a genuine need to employ foreign labor a pathway to do so under the new TSS visa program. We look forward to understanding the finer details behind this announcement, when the legislation is released by Government.

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Ireland:

PAYE Modernization: Revenue report on public consultation process

Overview

In his October 2016 Budget statement, Ireland's minister for finance announced the launch of a consultation process regarding the modernization of the pay as you earn (PAYE) system. Since the project commenced, Revenue – Ireland's taxing authority – has engaged a number of key stakeholders to obtain input from those who will be most affected by the introduction of the PAYE modernization system.

Deloitte is at the forefront of this engagement with the government and Revenue. As part of our representation, we have leveraged our experience with similar changes introduced across various jurisdictions. While the initial consultation process is complete, Revenue indicated it will continue to obtain feedback throughout the design phase from a broad range of interested parties, including tax agents, employers, and software providers.

Earlier this month, Revenue published the "Report on Public Consultation Process" (the "Report"), which provides a summary of the main issues identified by the various interested parties. In total, Revenue received 77 responses from a broad range of industry experts, including accountants (11), employers (26), payroll agents (15), and payroll software developers (7).

Timeline for implementation

Revenue confirmed the following timeline for implementation of the PAYE modernization system:

1. January 1, 2019 is the launch date for the PAYE modernization system.
2. By the end of June 2017, the employer submission data requirements will be published, allowing software providers to develop systems that complement real-time reporting.
3. By the end of March 2018, the public interface test facility will be introduced, allowing a nine-month testing window before full rollout of the system in January 2019.

A summary of the issues and queries raised by interested parties are as follows:

- Increased administrative burden for employers;
- Information and communications technology related issues;
- Payroll operations;
- Payroll corrections;
- Timing of employer submissions to Revenue;
- Department of Social Protection payments;
- Pay Related Social Insurance (PRSI);
- Other charges/contributions and on-PAYE income; and
- International comparisons.

Revenue's responses and other important information contained in the Report are summarized below.

Increased administrative burden for employers

A considerable amount of feedback was received during the consultation process that indicated the new modernized system and introduction of real-time reporting would increase the administration burden and costs of compliance, particularly for smaller employers (i.e., employers with less than five employees) who may not necessarily have software systems in place to allow for real-time reporting.

Revenue believes, however, that streamlining employer reporting obligations to Revenue with current payroll processes will bring efficiencies and reduce the administrative burden for all employers in the long run. Revenue is committed to implementing a user-friendly system for all employers. It is anticipated the new reporting process will be integrated into the employer's normal payroll run. Revenue will facilitate other online mechanisms that allow users to submit data if their software is not synchronized to Revenue's Online Service (ROS). In addition, a simple data capture mechanism will be available that allows employers to report payments made outside of payroll software, which addresses the concerns of employers who do not use payroll software.

Revenue also confirmed it intends to abolish the requirements to file Forms P30, P45, P35, and the generation of Form P60.

Revenue explained that employers who currently send monthly direct debits for PAYE payments will be able to use the simple data capture mechanism for this data, making it easy to meet their reporting obligations.

Technology-related issues

In recognition of technology-related issues, Revenue is working to make it as easy as possible for employers to comply with real-time reporting requirements. Revenue plans to introduce a public interface test environment that will be sized to allow for full-scale testing and will be supported by technical and business support staff who will work with software providers to ensure technology issues are mitigated following the introduction of the modernized PAYE system.

Operation of payroll and timing

In response to employer feedback regarding delays and difficulties receiving personal public service (PPS) numbers for both Irish and non-Irish national employees, the Department of Social Protection plans to collaborate with Revenue during the design phase of the PAYE modernization system. The objective of the collaboration is to ensure PPS

numbers can be obtained in a more timely manner. Revenue recognizes that, for some employers, the focus on year-end reporting may have contributed to in-year payroll practices that are not fully in line with PAYE regulations. The real-time reporting regime will make these visible, and such practices will need to change.

Corrections to payroll

Revenue will set out a proposed approach to deal with payroll corrections. In all relevant circumstances, the corrections system will be seamlessly integrated into the payroll process, with a facility in place to allow employers to view the data received by Revenue. Revenue is committed to working closely with payroll operators and tax agents to ensure employer submissions related to internationally mobile employees and employees in receipt of additional nonpay-based remuneration are also considered during the design process.

Timing of employer submissions to Revenue

Revenue confirmed it does not intend to change the due dates for employers to pay tax deductions and contributions to Revenue. Employer taxes will remain payable on the 23rd of the month following payment, whereas the timing of employer submissions will be reported in line with payroll processes. Revenue will calculate the taxes payable based on the information provided in the employer submission, and the employer will have until the 23rd to pay the taxes or amend the amounts submitted, if required.

Department of Social Protection payments and PRSI

Revenue confirmed it plans to work closely with the Department of Social Protection to reduce the administrative burden associated with the taxation of illness benefits and other social welfare payments.

Other charges/contributions and non-PAYE income

Revenue is committed to simplifying the income tax system for both employers and employees alike. Consideration will be given to incorporating small amounts of non-PAYE income into the PAYE system and simplifying the reporting processes for employees in receipt of non-PAYE income.

International comparisons

Revenue also outlined the main differences between the proposed PAYE modernization system and the system implemented by Her Majesty's Revenue and Customs (HMRC) under Real Time Information (RTI) in 2013. HMRC focused on employer reporting of PAYE in real time. Revenue is seeking to help employers by reducing the level of administration, as well as help employees ensure the right tax deductions are made to maximize employee entitlements throughout the year.

Deloitte's view

We very much welcome reform of the PAYE system. We are of the view that the new modernized system will better accommodate the complexities of today's employment patterns and structures, while simultaneously addressing the nuances associated with more unusual payroll arrangements.

We also remain of the view that it is critical to ensure there are no cost barriers for employers, particularly small employers, and also that mobile workers and non-routine payroll items are considered during the design phase so that research technology and innovation (RTI) can be introduced with relative ease and be fit for purpose.

Revenue appears to be investing a significant amount of time and allocating extra resources at this stage, which is a positive sign. Revenue's responses outlined in the Report confirm it is considering various points raised during the consultation process and addressing them during the design phase to ensure the transition is effected with as little disruption as possible in January 2019.

It will certainly be an interesting few months ahead as Revenue approaches the end of the design phase and enters into the implementation phase. The introduction of the modernized PAYE system will mark a fundamental change in payroll reporting for employers across the board, given that the nature of the reporting mechanism has not been altered since the introduction of the PAYE system in 1960. Deloitte is currently engaging with employers to ensure

they are ready for the full rollout of the modernized system in January 2019. It is imperative that employers put processes in place now to ensure that these changes are considered and communicated to the various interested parties as the process evolves.

The next milestone will be in June 2017, when Revenue releases the employer submission data requirements. Deloitte will continue to provide updates on this matter as they arise.

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Korea: Restrictions on visa renewals for foreign nationals with delinquent tax payments

Overview

The Ministry of Justice and the Ministry of Government Administration and Home Affairs, along with local governments, have decided to expand enforcement of the Tax Delinquency Verification System to 16 major immigration offices to increase the collection rate of delinquent taxes (i.e., income taxes, property tax, customs duty) owed by foreign nationals.

How does the Tax Delinquency Verification System work?

Until recently, most immigration offices did not consider tax delinquency as a reason to deny visa extension requests. However, in May 2016, the immigration authority decided to pilot a program designed to examine visa renewal applicants' tax compliance status before granting visa extensions and now plan to implement the system in 16 immigration offices nationwide.

Effective May 1, 2017, the new Tax Delinquency Verification System will allow the Ministry of Government Administration and Home Affairs to provide the names of foreign nationals with delinquent taxes to the immigration authority. When foreigners apply for visa extensions, the immigration officers will cross-check their names against the delinquent tax data and if they have delinquent taxes, the applicants will be provided with tax payment vouchers and asked to make the payments. If the payments are made as requested, the visas will be renewed. If payments are not made as requested, then the extension request can be denied with only a few exceptions.

Delinquent taxes not only include national income tax, but also local income taxes and customs duties.

Deloitte's view

This measure is intended to better manage taxation of foreign nationals in Korea and bring awareness about tax payment obligations.

When applying for visa extensions, foreigners do not need to prepare supplementary documents in addition to the documents normally requested. However, it is recommended that foreigners check before applying for visa extensions to determine if they have any outstanding taxes due.

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People's Republic of China: China to upgrade foreigner's permanent residence cards

Overview

China recently drafted a new reform plan to ensure foreigner's permanent residence cards are granted more recognition and convenience nationwide.

Highlights

According to the Facilitation Reform Plan on Foreigner's Permanent Residence Cards, released by the Ministry of Public Security, the original Foreigner's Permanent Residence Card will be renamed the Foreigner's Permanent Residence ID Card, which will have similar functions as Chinese national's current ID cards.

Chips will be inserted into the new residence ID cards to facilitate easy identification of cardholders and allow information to be connected and shared among different departments. Information and data systems used by railway, civil aviation, insurance, hotels, and banks will also be upgraded with an aim to provide more convenient and better service to foreigners holding permanent residence cards.

The reform plan will be completed during the second quarter of 2017, by which time foreigners in possession of permanent residence cards can choose to upgrade their cards or keep the old version until the expiry date.

Deloitte's view

Since 2004, China has issued just over 10,000 permanent residence cards, which averages out to about 850 cards per year. However, according to China's Ministry of Public Security, the number of residence cards issued per year nearly doubled in 2016 to total 1,576. Such significant growth is attributed to China's immigration reform in 2015, along with streamlined application procedures and regulations to encourage highly qualified individuals to move to China.

This newly announced facilitation reform plan is another indication that China is looking to retain foreign talent by providing more convenience to those in possession of permanent residence cards, allowing them to receive national treatment and enjoy the same benefits as Chinese nationals.

It is worth noting that although obtaining permanent residency in China will alleviate the administrative burden of the visa process, foreigners considering this route should also evaluate the implications that a change in residency status will have on tax liability (i.e., tax on worldwide income in China), social benefits, and financial planning.

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