In this issue:

Hong Kong:
Immigration Department continues enforcement activities – performers being arrested for working in Hong Kong without work visas

Overview

On May 7, 2017, the Immigration Department raided a band's venue and arrested numerous people – including four foreign national musicians, as visitors performing without work visas – for breaching their conditions of stay in Hong Kong. Though they were released and have left Hong Kong, the Immigration Department continues with its investigation. The musicians are required to return to Hong Kong and report to the department on 5 June 2017. On this occasion, the Immigration Department sent undercover officers to the venue after receiving a tip-off.

On May 17, 2017, the Immigration Department detained two artists, who were scheduled to perform "privately" at the same venue, when they tried to enter Hong Kong as visitors. They were released after signing statements, declaring they would not perform during their stay in Hong Kong. The venue's Facebook posts promoting the "private" performance likely triggered the department's action.

Deloitte's view

Other than tip-offs/whistleblowing, the authorities will also monitor social media platforms to launch investigations. If and when in doubt of a visitor's genuine purpose of entry to Hong Kong, the Immigration Department has the right to obtain a declaration regarding his/her activities in Hong Kong before deciding whether to grant him/her entry to Hong Kong as a visitor, or refuse his/her entry.

It is critical that controls are in place to ensure employees have secured work visas before coming to Hong Kong for work, even for a short period of time. When organizing conferences/social functions/public events, checks should also be in place to ensure that invited individuals have obtained appropriate visas for relevant activities in Hong Kong.

As we have seen many times, enforcement does occur and there can be both monetary and reputation risks for noncompliance.

To reiterate the penalties, an employee who breaches his/her condition of stay in Hong Kong will be liable on conviction to a maximum fine of HK$50,000 and to imprisonment for two years. The employer is liable to pay a maximum fine of HK$350,000; company representative's risk serving three years' imprisonment for employing a person not lawfully employable; and there is a maximum fine of HK$150,000, as well as a one-year imprisonment, for failing to inspect documents for work eligibility.

— Joyce W. Xu (Shanghai)
Partner
Deloitte People's Republic of China
joycewxu@deloitte.com.cn

Huan Wang (Beijing)
Partner
Deloitte People's Republic of China
+ 86 10 8520 7510
huawang@deloitte.com.cn

Irene Yu (Shanghai)
Partner
Deloitte People's Republic of China
iryu@deloitte.com.cn

Cecille Yang (Shanghai)
Managing Director
Deloitte People's Republic of China
cyang@deloitte.com.cn

Tony Jasper (Hong Kong)
Partner
Deloitte People's Republic of China
tojasper@deloitte.com.hk

Singapore: Immigration update

CorpPass will be used for online transaction with government agencies

Effective from December 2017, companies will need to have a Singapore Corporate Access (CorpPass) ID to transact online with government agencies e.g., the Ministry of Manpower (MoM), the Inland Revenue Authority of Singapore (IRAS), etc.

Currently, individual users with SingPass are allowed to perform work pass transactions via the Employment Pass Online (EPOL) until CorpPass ID is set up.

The MoM has urged companies in Singapore that have yet to do so, to set up a CorpPass account as soon as possible at www.corppass.gov.sg.

Increase in the salary threshold for local part-time and full-time employees

Following the Budget 2017 announcement, the MoM has stated that there will be an increase in the salary threshold for locals to be considered full-time or part-time employees in order to be considered as part of the ratio for hiring foreign workers. The MoM will implement the change in two different phases. Please find the details below:

- Effective from July 1, 2017: Locals earning at least S$1,100 will be considered full-time; while those earning S$550 to below S$1,100 will be considered part-time.
- From July 1, 2018: Locals earning at least S$1,200 will be considered full-time; while those earning S$600 to below S$1,200 will be considered part-time.

The above will be considered in the calculation of a company's quota for S Pass and Work Permit holders.

Deloitte's view

At present, access to the EPOL to process any application of work passes/permits is available to individual users with a SingPass ID. Such access will no longer be available with effect from December 2017 and all companies in Singapore have been informed to register for the CorpPass ID. Those with CorpPass ID can already use it to access EPOL.

The Singapore Government has been encouraging employers to consider fair employment by imposing a quota on the number of foreigners that can be hired in an organization based on the number of existing local employees (i.e., Singapore citizens and Singapore Permanent Residents). Employers will need to consider the change in the salary threshold for local part-time and full-time employees; for the purpose of workforce planning for the future.

Deloitte's recommendation

- Companies that have not registered for CorpPass ID are required to do so before December 2017 and assign user administrators with relevant access to avoid any delays in online transactions with relevant government agencies such as the MoM and the IRAS.
- Companies in Singapore that wish to sponsor Work Permits and S Pass for their foreign employees are required to take note of the new salary threshold to calculate the foreign worker quotas.

— Jill Lim (Singapore)
Partner
Deloitte Singapore
jilim@deloitte.com

Lisa Alton (Singapore)
Partner
Deloitte Singapore
lialton@deloitte.com

Sabrina Sia (Singapore)
Partner
Deloitte Singapore
ssia@deloitte.com

Regulatory uncertainty's impact: Global talent and mobility planning

Economic and political developments, from the macro to the specific, are feeding a palpable sense of uncertainty among talent and mobility professionals. As calendar Q1 2017 crossed to Q2, the UK government began formal proceedings for its withdrawal from the European Union, with potentially major implications for mobility programs and workers. Across Europe, a number of major jurisdictions have elections. And, in the United States, cross-border mobility policies and regulations remain top priorities.

One area of interest to many talent and mobility teams are recent and potential changes in the US H-1B employment-based visa program. "Buy American, Hire American," the executive order signed by President Trump on 18 April 2017, directs the Secretary of State, the Attorney General, the Secretary of Labor, and the Secretary of Homeland Security to suggest reforms to the H-1B visa program so visas "are awarded to the most-skilled or highest-paid petition beneficiaries." On 3 April, the US Citizenship and Immigration Services (USCIS) suspended premium processing of H-1B petitions for up to six months in order to process long-pending petitions and prioritize adjudication of certain extension of status cases.1 The USCIS also announced implementation of additional measures to combat fraud and abuse of the H-1B program to protect American workers. The High-Skilled Integrity and Fairness Act of 2017 introduced in the US House of Representatives would eliminate the per-country cap for H-1B visas, change salary thresholds, and potentially alter spouse and dependent work permits.

Other US developments to watch include the outcome of legal proceedings related to the US's revised immigration executive order, healthcare reform, the status of the Trans-Pacific Partnership and other trade agreements, and US tax reform.

In the UK there is ongoing uncertainty as to what the post Brexit environment will be. Detailed negotiations have yet to start but the current rhetoric from both the Commission and the UK government suggests these will not be easy discussions. The extent of any continued freedom of movement – both goods and people – are fundamental issues to be resolved. Currently EU citizens are free to travel and work anywhere within the EU. Any change to this will clearly impact talent mobility planning. However, one area both parties are keen to resolve early on, is the status of EU nationals currently in the UK and vice versa.

Top considerations and planning for human resources and global mobility

Talent and mobility professionals can play a role in guiding their organization and its people through current and future developments and uncertainties. Following are the key dimensions of global talent and mobility management to consider:

- **Global talent supply and sourcing model:** Talent and mobility management teams will have decisions to make should developments related to Brexit, H-1B visas, or other factors modify eligibility and/or processes for cross-border movement. Questions to consider include how such changes would affect the company's talent supply and supply chain. Would the company need to source differently for projects or roles? Would skill requirements need to be filled with different employees? Does the company need to invest in developing existing talent as a long-term strategy to fill critical roles? How and where will those employees be found, assigned, and trained?
- **Changing labor costs and tariffs:** Possible increases in the H-1B minimum salaries or increased tariffs on outsourcing work are just some examples of legislative and regulatory changes that could affect talent and mobility. These potential changes could impact a company's total rewards philosophy and structure, especially if the minimum salary falls outside compensation bands for specific roles. Talent acquisition and development costs could begin to have an increased impact on the company's profitability.
- **Global business footprint and location strategy:** In some circumstances concerns over the ability of people to travel easily across borders could lead companies to re-examine location of headquarters operations. Or, mobility may become a more urgent consideration in establishing new operating locations and talent hubs.
- **Associated costs for business travelers:** Along with the issues noted above, mobility teams will also likely need to consider the effects of regulatory changes on business travelers – i.e., employees who travel domestically and internationally for business but do not change their primary residence. Key considerations include preparing travelers for possible new security requirements, immigration interviews, and other country-by-country requirements, as well as establishing a formal traveler-tracking mechanism, that also takes into account tax risks and liabilities.
- **Broader talent strategies and issues:** Maintaining an effective workforce in today's dynamic environment generally involves addressing issues related to the employer's brand, employee communications, and learning and development. Broadly, companies will have to consider how they can balance a potential impact on their ability to offer career-enhancing international opportunities with priorities such as diversity, inclusion, and succession planning.
- **Changes to supply chain with regard to cross-border goods or services:** Changes in cross-border tariffs on goods and services may have a substantial impact on talent as well. The cost and ease of shipping components and assemblies from country to country could be a major factor in determining how and where to staff operations.

Next steps

Due to the uncertain nature of how these important political developments will unfold, some companies are taking the "wait and see" approach – only reacting or responding to definitive outcomes. However, many are looking ahead to proactively scenario plan for anticipated changes. Some specific actions being taken include:

- **Diagnostic review:** Assessing the current state of their talent programs in order to better understand potential gaps in information, processes or procedures. Assessing the company's readiness for managing talent and mobility in a changing economic and geopolitical environment.

- **Strategy workshops:** Focusing on and addressing key organizational priorities and challenges related to talent, workforce, and location strategies, and using this data to better understand how regulatory changes could impact their talent supply and supply chain.
- **Workforce analytics:** Beginning to leverage talent data to visualize and analyze current and future workforce composition, draw insights from data visualization, construct scenarios, and advise the business.

— Nicole Patterson (San Jose)
Managing Director
Deloitte Tax LLP
nipatterson@deloitte.com

Elizabeth Rizzo (Dallas)
Senior Manager
Deloitte Tax LLP
elrizzo@deloitte.com

Gillian Deppeler (Chicago)
Senior Manager
Deloitte Tax LLP
gdeppeler@deloitte.com

Janet Pham (San Jose)
Senior
Deloitte Tax LLP
japham@deloitte.com

Global Reward Updates:
New Zealand: Determining "value" of shares received under employee share plans

Introduction

As previously communicated in our June 2016 Update, effective April 1, 2017 (the start of the current New Zealand fiscal year) employers are required to report share benefits received by employees to the Inland Revenue.

The New Zealand Inland Revenue have now released a Commissioner's Statement CS17/01 providing guidance on how to determine the value of shares received under a share purchase agreement ("SPA") for tax purposes (including employer reporting).

Background

For New Zealand tax purposes, shares are considered to be acquired under an SPA whenever employees acquire shares for less than market value (i.e., substantially any employee share plan / incentive, potentially including options, RSUs, employee purchase plans, etc.).

The Income Tax Act does not define the taxable "value" for share based transactions. The commissioner's statement indicates that the "market value of the shares" should be measured by reference to the value that the shares would be exchanged for between two non-associated third parties, on an arm's length basis.

Valuation of the Benefit

The statement outlines certain methods and the supporting documentation that will be acceptable for determining the value of the share benefits received by employees on or after April 1, 2017:

Listed shares: For listed shares on a recognized exchange, the following three valuation methods will be accepted by the Commissioner:

1. Volume Weighted Average Price (VWAP), which is calculated using the price of the last five trading days, inclusive of the acquisition date. The price of the share is multiplied by the number of shares traded and then divided by the total shares traded for the day.
2. Closing price of the listed share on the acquisition date.
3. If the employee disposes of the shares on the date of acquisition, the actual sale proceeds received.

For shares listed on an overseas exchange, conversions to New Zealand dollars should be undertaken using the close of trading spot exchange rate on the acquisition date.

In all cases, documentation is required to support the value and method that is used.

Unlisted shares: For unlisted shares (excluding start-up company shares), the following methods of share valuation are considered acceptable.

1. An arm's length value determined by a qualified valuer that conforms with generally accepted practice.
2. A valuation based on an arm's length transaction (e.g. capital raising) undertaken in the last six months.
3. A valuation prepared by an appropriate person within the company.

Start-up companies: For a start-up company the valuation methods are broadly the same as an unlisted company except that:

1. A valuation based on a recent transaction can be relied upon if the transaction has occurred within the last 12 months (as opposed to 6 months).
2. A valuation based on the determination of an appropriate person in the company will require the use of the discounted cash flow method (as this is the only method considered appropriate by the Commissioner).

Newly listed companies: Shares issued to employees as part of an Initial Public Offering ("IPO") are to be valued using the published offer price included in the retail offer documentation.

Deloitte's view

The guidance from the Inland Revenue is welcome news and provides clarity to employers valuing shares provided to employees under employee share plans (SPAs).

Employers are encouraged to consider the new rules and adopt the appropriate valuation approaches when reporting income from employee share plans.

© 2017. For information,
contact Deloitte Touche Tohmatsu Limited.