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Europe: Schengen Touring Visa: A new one year-long visa in the making

Overview

The European Commission is proposing a visa to allow third-country nationals to travel and stay in the Schengen area for up to 12 months without requiring full residency.

The current Schengen rules allow third-country nationals to enter and stay in the Schengen area for up to three months in a six month period (the "90/180-day rule") either using a Schengen visa or through a visa waiver program. The aim of these rules is to provide free movement within the Schengen area while ensuring security.

It is not possible for third-country nationals to stay longer in the Schengen area unless they take up full residency in one of the member states. The 90/180-day rule may have been appropriate when the Schengen agreement was first initiated by the five original member states – France, Germany, Belgium, Luxemburg, and the Netherlands. However, today the 90/180-day rule can cause problems for frequent visitors to the Schengen area; for example:

- Performing artists may be prevented from performing in shows because they have to leave the Schengen area after 90 days. They intend to tour around in Europe and not take up full residency, thus limiting their stays to 90 days.
- Frequent business travelers constantly count the stamps on their passports to prevent overstays and must postpone upcoming travel if they reach the 90-day limit.
- Executive managers with a pan-European function travel all around Europe for their jobs, but continue living with their families abroad (outside the Schengen area). Under the current rules, they would need to take up full residency in the Schengen area to obtain a residence permit that allows them to travel freely.

Acknowledging these issues, the European Commission is proposing the establishment of a new "touring visa." This is a completely new visa type called Schengen visa type T. This visa type is without precedent, and would significantly alter Schengen legislation. The visa would be open to all third-country nationals who plan to stay in two or more member states for more than 90 days, but no more than a year, provided the applicant does not intend to stay for more than 90 days in any 180 day period in the same member state. The European Commission is also proposing the possibility to extend the visa for up to two years.

What is the status of the proposed new visa?

The European Parliament's Committee of Civil Liberties, Justice, and Home Affairs (LIBE) has made some amendments to the European Commission's proposal that limit the scope of the new touring visa to performing artists, elite sports persons, and business-related travelers, rather than all third-country nationals. If these amendments are accepted, it would change the original idea behind the proposal, which was to create a visa that allows travelers (including tourists) to tour around Europe. As a result, the LIBE also suggests adapting processes, durations, and supporting documents to support these amendments.

Next steps

The European Parliament's LIBE committee adopted a report with amendments, which is tabled for the plenary meeting of the European Parliament. Tripartite meetings ("trilogues") between the European Parliament, the European Commission and the Council will now need to take place. The duration of the trilogues depends on the topic. Since the touring visa is linked to the entry and exit system and the recasting of Schengen regulations, many changes may occur at once.

Deloitte's view

There are many upcoming changes to EU Directives, with some entering into force earlier than others. It is recommended that professionals traveling to the Schengen area familiarize themselves with these changes as much as possible. The implementation of a touring visa would be beneficial for top executives who spend more than 90 days in a 180-day period in the Schengen area, but do not want to take up full residency in a member state. The touring visa would allow these professionals unlimited travel during a one-year period.

The European Union is currently working on an entry and exit program that would collect data from all travelers entering and exiting the Schengen area. This program would automatically calculate the number of days each traveler spends in the area. With a touring visa, business travelers will be able to enter and exit without worrying about overstays.

— Matthias Lommers (Brussels)
Director
Deloitte Brussels
mlommers@deloitte.com

Alexandre Pirotte (Brussels)
Senior Manager
Deloitte Brussels
apirotte@deloitte.com

India:
Harmonizing global and local perspectives

Quoting of Aadhaar in tax returns not mandatory for non-Indian citizens and non-residents – notification issued.

Overview

- Recent amendments to the Income Tax Act, 1961 require every person who is eligible to obtain an Aadhaar number
    - To quote the Aadhaar number in the income tax return to be filed on or after July 1, 2017
    - To communicate the Aadhaar number to the prescribed authority with respect to the permanent account number (PAN) allotted as of July 1, 2017
- If an individual fails to link the Aadhaar number with a PAN, the PAN allotted will be deemed invalid and the individual will be treated as not having applied for a PAN
- The amendment also provides that a certain class of people may be exempt from the above provisions

Highlights of the notification and press release

- The Ministry of Finance has now issued a notification providing for the exemptions, as well as a press release on the process for linking PAN with Aadhaar number.
- The notification states that quoting Aadhaar number or enrollment ID shall not apply to an individual who is:
    - Residing in the states of Assam, Jammu and Kashmir and Meghalaya;
    - A non-resident as per the Income Tax Act, 1961;
    - 80 or more years old at any time during the previous year; and
    - Not a citizen of India
- The press release indicates that the Income Tax department has simplified the process in response to the difficulties taxpayers are facing linking PAN with Aadhaar.
- Linking of PAN with Aadhaar is now also possible for those who are not registered on e-filing website of the tax department. The linking may be completed without logging in to the account.
- To link PAN with Aadhaar, below is the process.
    - Go to www.incometaxindiaefiling.gov.in and click on the link on the left pane -> Link Aadhaar.
    - Provide PAN, Aadhaar number, and enter name as appearing on Aadhaar card, and submit.
    - After verification from Universal Identification Authority of India ('UIDAI'), linking will be confirmed.
- In case of any minor mismatch in the Aadhaar name provided (regarding the name appearing on the Aadhaar card), a one-time password (Aadhaar OTP) will be sent to the registered mobile number for verification. Other details, such as date of birth and gender in PAN and Aadhaar, should be the same.
- For cases in which the Aadhaar name is completely different from the name in PAN, then the linking will fail and the person will need to get the name changed in either the Aadhaar or PAN database.

Deloitte's View

Exempting non-residents and non-Indian citizens from quoting Aadhaar in their tax return/ linking PAN to Aadhaar is definitely welcome. Individuals who are residents during the financial year for which the return is being filed – but have been unable to obtain Aadhaar since they were not present in India while filing the returns – could still face challenges.

The Government has urged tax payers to complete the linking of Aadhaar with PAN since this would assist taxpayers in e-verifying their income tax returns.

Source:

- Gazette Notification Number – S.O. 1513(E) released by the Ministry of Finance dated May 11, 2017
- Press release by CBDT dated May 11, 2017

— Anis Chakravarty (Mumbai)
Partner
Deloitte India
anchakravarty@deloitte.com

Global Rewards Updates:
United Kingdom: Extension of UK share plan return deadline for 2016/2017

Key Points to Know

The deadline for submitting annual share plan returns to HMRC for the tax year 2016/2017 has been extended to August 24, 2017. Penalties will apply if a return is due for 2016/2017 and is not filed by this revised deadline.

Overview

In the United Kingdom, an online annual share plan return is required to be submitted to HMRC for each registered share plan the company has (even where there were no reportable events during the year). Companies will need to register their plan, before submitting a return, where there are reportable events during the tax year and the share plan is not covered by an existing registration.

The deadline for these returns is usually July 6 following the end of the tax year. However, a number of companies have experienced issues with the HMRC Employment Related Securities (ERS) portal when they have attempted to file their return this year. HMRC have therefore decided to extend the deadline for 2016/2017 returns to August 24, 2017. Penalties will apply if a return is due for 2016/2017 and it is not filed by August 24, 2017.

Deloitte's view

Following the issues that a number of companies have experienced when they have tried to submit their share plan returns for 2016/2017, it is welcome that HMRC have extended the deadline for submission of these returns. Companies should ensure that they meet this revised deadline to prevent automatic penalties from being applied.

For assistance with these issues, or any other issue related to the operation of your global equity plans, please contact your usual Deloitte adviser or email us at globalshareplans@deloitte.co.uk, and an adviser will contact you.