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Indonesia:
Immigration update: Indonesia has removed Pakistan from the calling visa country list

Overview

The Indonesian government requires citizens of certain countries that do not have diplomatic ties with Indonesia to obtain calling visas prior to obtaining visit visas (e.g., business visas or work visas) to enter Indonesia. To obtain a calling visa, an individual must submit the required documents and application to the Indonesian Embassy or Consular

Affairs section, which will coordinate with the Indonesian Directorate General of Immigration for the issuance of Calling Visa.

To determine whether an individual can be given a calling visa, the director of the sponsoring company should attend a Clearance House meeting with representatives from several government authorities, including the Ministry of Law and Human Rights, the Ministry of Foreign Affairs, the Ministry of Manpower and Transmigration, the police, and the Narcotics Agency.

Pakistan had been on the list of countries whose citizens require calling visa for almost 13 years. In view of the growing business relations between Pakistan and Indonesia, as well as Pakistani travelers' interest in Indonesian tourist destinations, the Indonesian government has decided to remove Pakistan from the list of countries whose citizens require calling visas.

Changes

The Ministry of Law and Human Rights regulation number M.HH 02.GR.01.06 of year 2017 was issued to amend the Minister of Law and Human Rights regulation number M.HH 03.GR.01.06 of 2012 regarding calling visas and remove Pakistan from the list of countries whose citizens must obtain calling visas prior to applying for visit visas.

After this amendment, there are currently nine countries whose citizens still require calling visas:

1. Afghanistan
2. Cameroon
3. Guinea
4. Israel
5. Liberia
6. Niger
7. Nigeria
8. North Korea
9. Somalia

Deloitte's view

This new regulation releases Pakistani citizens from the calling visa process. They can now apply for visit visas, including work visas, more quickly. Indonesian immigration authorities still require Pakistani citizens to supply additional documents, such as copies of their identity cards Identity Card in Pakistan. Also, Pakistanis who work outside Pakistan at the time they apply for visas to Indonesia must provide copies of valid work visas from their current employers.

This new policy also brings hope for future expansion in bilateral, political, and economic relations between Indonesia and Pakistan.

— Irene Atmawijaya (Jakarta)
Partner
Deloitte Indonesia
iatmawijaya@deloitte.com

Vera Widiawati (Jakarta)
Senior Manager
Deloitte Indonesia
vwidiawati@deloitte.com

The Netherlands: New income thresholds for Highly Skilled Migrants

Overview

As of January 1, 2018, the salary thresholds for Highly Skilled Migrants (HSM) in the Netherlands will change to the following gross monthly amounts (excluding 8% holiday allowance):

- Highly Skilled Migrants 30 years or older: €4.404
- Highly Skilled Migrants younger than 30 years: €3.229
- HSM subsequent to graduation[1] or after search year/highly educated persons: €2.314
- European Blue Card Holders: €5.160

The new salary thresholds apply to applications filed after December 31, 2017. For applications submitted in 2017, the current (2017) salary thresholds are applicable.

Deloitte's view

In order to meet the salary threshold, monthly salary components can be included that are gross, guaranteed, and paid directly into the bank account of the employee. Benefits in kind or nonguaranteed salary components (for example, a yearly performance bonus) cannot be included to meet the monthly salary threshold.

— Marjolein Reedijik (Amsterdam)
Manager
Deloitte The Netherlands
mreedijk@deloitte.nl

Stephanie Kortleve (Amsterdam)
Senior Consultant
Deloitte The Netherlands
skortleve@deloitte.nl

Simme de Groot (Amsterdam)
Consultant
Deloitte The Netherlands
sdegroot@deloitte.nl

Arjen Werners (Amsterdam)
Consultant
Deloitte The Netherlands
awerners@deloitte.nl

Singapore:
Immigration update: Additional information on hiring practices required for an Employment Pass (EP) application

Overview

Effective from November 10, 2017, the Ministry of Manpower (MOM) has requested employers that are applying for an Employment Pass (EP) to provide additional information relating to the employers' hiring practices.

Although this new requirement was not officially announced by the MOM, the online application form for an EP was updated to include additional questions.

The additional information required includes the following:

1. Have you advertised this post on the Jobs Bank?
2. Has your firm searched for candidates for this job using other recruitment methods and channels?
3. Employers are asked to provide the number of applicants by Singapore citizens, Permanent Residents, and Foreigners for the following stages of job applications:
    a. Applied for the job
    b. Were interviewed for the job
    c. Were offered the job
    d. Were hired for the job (if there is data available for this section, it is assumed that there were more than one vacancy for the same job available)
4. How did your firm source for this EP applicant?
5. Has your firm considered other candidates for this job?
6. Employers are asked to declare if they have considered local candidates fairly and provide reasons why the EP applicant is selected (up to three reasons).

[1] Conditions can apply.

Under the Fair Consideration Framework, job posting requirements at the Jobs Bank are not mandatory for jobs with a monthly fixed salary above SGD12,000. However, the MOM does not stop an employer from advertising the job position using other recruitment methods and channels. For positions that are subject to the job posting requirement, the employer is required to provide the additional information as indicated above.

Deloitte's view

There are no changes in the underlying requirements of the Fair Consideration Framework and the authorities are ensuring that all companies will be held to the same requirements. The additional request for information is an enforcement of job posting requirements to ensure that employers give fair consideration to the hiring of Singapore citizens before the jobs are offered to foreigners.

The MOM did not previously require employers to provide additional information relating to their hiring practices. However, the MOM had advised employers to ensure that they have the relevant information supporting the successful candidates; in order to resolve any complaints relating to discrimination in the selection and hiring of foreigners.

The MOM reiterated that the assessment of each EP or S Pass application will be based on the information provided in the application. The MOM has the discretion to request for additional justifications or clarifications, and to reject any application without giving any reasons. Although there may not be an immediate impact for failing to provide the additional information indicated above, it is expected that employers should start to track the information and provide it to the MOM.

— 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

Michele Chao (Singapore)
Partner
Deloitte Singapore
micchao@deloitte.com

Sweden:
Economic employer

Overview

Earlier this year, the Swedish Tax Agency delivered a memorandum to the Department of Finance, in which they proposed a number of important amendments that would increase obligations for both foreign employers and nonresident employees on temporary assignments to Sweden. The proposal has now been included in the government's draft budget for 2018 and is expected to come into force January 1, 2019, if accepted by the Swedish Parliament.

The most important amendment proposed is a change from the existing legal/formal employer concept (applicable in Sweden today) to an economic employer concept. This means that the company that benefits from the work performed will be regarded as the actual employer rather than the company that pays out the salary. In practice, this will mean that more short-term workers in Sweden will become taxable in Sweden, as the 183-day rule will not be applicable.

Current Swedish legislation

According to current internal Swedish legislation, a tax nonresident individual will be taxed in Sweden if the individual works in Sweden and is employed by a Swedish company, or a foreign company with a permanent establishment in Sweden. However, an individual will not be taxed in Sweden in accordance with the 183-day rule, provided that the individual is employed by a foreign company and the following conditions are met:

- The stay in Sweden does not exceed 183 days during a consecutive 12-month period.
- The remuneration is not paid by or on behalf of a Swedish employer.
- The remuneration costs are not borne by a permanent establishment in Sweden.

Following current Swedish internal legislation, the employer is the one that is legally responsible for the employee and paying out the salary.

Based on the current Swedish interpretation of the employer concept, the 183-day rule has, for example, been applicable in situations where a foreign employee receives remuneration from a foreign employer, even if the costs for the work have been recharged to and borne by a Swedish company for which the actual work is performed.

The proposed amendments

The proposed amendments mean that it is no longer of importance who pays out the remuneration, but instead the assessment will be based on which company benefits from the actual work performed and which company bears the cost, etc. Therefore, the assessment will be based on an economic employer concept rather than the existing formal employer concept.

Further, it is proposed that there should be an obligation for individuals working in Sweden to register with the Swedish Tax Agency unless they already have a Swedish civic registration number or a Swedish coordination number.

The purpose of the amendments is to level the playing field between individuals hired by a Swedish company and individuals hired by a foreign company but who are performing work for a Swedish business.

In addition, the Swedish Tax Agency has presented three other concrete amendments that concern foreign companies:

- A foreign payer without a permanent establishment in Sweden is obliged to withhold taxes on remuneration paid for work performed in Sweden by their employees. The extension of this will be that the payer will have an obligation to register as an employer with the Swedish Tax Agency and file monthly PAYE returns.
- The exemption that a Swedish payer should not withhold any taxes on remuneration paid to a foreign company without a permanent establishment in Sweden is removed.
- Foreign companies with partial business in Sweden shall provide certain information in order for the Swedish authorities to be able to assess their tax liability.

Deloitte's view

Since the economic employer concept is applicable in many other countries, the proposed amendment is not unexpected. The proposal will lead to a significant change for foreign employers with outbound employees performing work in Sweden to the benefit of a Swedish business. The change to an economic employer concept is expected to trigger a tax liability in Sweden for an increased number of individuals.

In practice, this means that individuals with a foreign employer who are working temporarily in Sweden are taxed on employment remuneration from day one if the employee is working for a business in Sweden. Even though the proposal distinctly refers to tax nonresidents, the changed employer concept appears to be applicable for tax residents, as well. Following this, the individual will have to declare income received as subject to taxation in accordance with the legislation for special income tax for nonresidents. Should the assignment exceed six months, a regular tax return will instead need to be filed.

The administrative work will increase significantly for both employers and employees if the proposal is approved. Deloitte, therefore, recommends a review of the current process for business travelers and short-term workers, particularly for those working for the benefit of a Swedish company. Further, Deloitte's recommendation is that companies ensure that they have a process for tracking foreign employees working in Sweden.

Finally, as more business travelers and short-term workers are expected to be taxed from day one in Sweden, this will result in an increased number of double-tax situations. Deloitte Sweden will continue to monitor the progress of the proposal and provide further updates.

— Olle Kinnman (Stockholm)
Partner
Deloitte Sweden
okinnman@deloitte.se

Anna Sabelström Holmberg (Stockholm)
Partner
Deloitte Sweden
aholmberg@deloitte.se

Martina Ogenhammar (Stockholm)
Manager
Deloitte Sweden
mogenhammar@deloitte.se

Linnea Ranvinge (Stockholm)
Associate
Deloitte Sweden
lranvinge@deloitte.se

Taiwan:
Act that greatly benefits foreign professionals passes hurdles

Overview

In order to strengthen the recruitment of foreign professionals and create a friendly living environment, the Act for Recruitment and Employment of Foreign Professional Talent (the "Act") passed its third reading in the Legislative Yuan on October 31, 2017. The Act greatly assists foreign professionals in Taiwan in securing visas, residency, health insurance, and retirement benefits, as well as offers tax reductions for the first three years of residency.

A summary of the Act's key measures follows:

Issuance of 4-in-1 Employment Gold Card	The National Immigration Agency (NIA) now offers a 4-in-1 Employment Gold Card that includes a work permit, resident visa, alien resident certificate, and re-entry permit. Foreign special professionals may apply for gold cards that are valid for one to three years, and holders can apply for renewals upon expiration.
Work Permit Duration Increased	The maximum work permit duration for foreign special professionals has expanded from three to five years, and holders can apply for extensions upon expiration.
Personal Work Permits for Adult Children	If the adult children of an alien permanent resident certificate (APRC) holder meet the conditions for extension of residency, they can apply for work permits themselves.
Permanent Residency	Permanent residents who stay away from Taiwan for more than five years may have their permanent residency permits revoked and their APRCs canceled. This replaces the more stringent former restriction that required permanent residents to remain in Taiwan for at least 183 days per year or risk losing their residency status. A foreign senior professional's spouse, minor children, or adult children who cannot live independently due to physical or mental disability may apply for permanent residency together with the foreign senior professional. If the spouse, minor children, or adult children of a foreign professional with an APRC cannot live independently on their own due to physical or mental disability, they can apply for an APRC for themselves after they have lawfully and continuously resided in Taiwan for five years. (Article 16)
Extended Stay Limits for Lineal Ascendants	The maximum length of stay in Taiwan for lineal ascendants of a foreign special professional under a visit visa has been extended from six months to one year. (Article 13)
Relaxation of National Health Insurance (NHI) Coverage Restrictions	Foreign professionals with documented proof of residency, as well as their spouses, minor children, and adult children who cannot live independently due to physical or mental disability, will no longer be subject to a six-month wait for inclusion in NHI coverage. (Article 14)
Tax Benefit	Upon first-time approval to work in Taiwan, foreign special professionals will be excused from paying income taxes on half of their annual salaries in excess of NT$3 million for the first three tax years in which they remain in Taiwan for 183 days or more. (Article 9)

Strengthened Retirement Protections	Foreign professionals who have been approved for permanent residency will be included in the retirement pension system under the Labor Pension Act. (Article 11)

Note

1. "Foreign professional" means a foreign national engaging in professional work in Taiwan.
2. "Foreign special professional" means a foreign professional who possesses expertise in science, technology, economics, education, culture, the arts, sports, or other fields deemed needed by the government of Taiwan.
3. "Foreign senior professional" means a senior professional needed by Taiwan as prescribed in Article 25, Paragraph 3, Subparagraph 2 of the Immigration Act.

Deloitte's view

Under this new Act, some immigration processes for qualified expatriates will be simplified. Certain tax, insurance, and retirement benefits will be granted as well. Therefore, local employers should carefully review expatriate's qualifications and work functions to determine whether they qualify for the benefits of this new Act. Alternatively, employers can engage consultants, such as Deloitte, to complete such reviews.

— Cheli Liaw (Taipei)
Partner
Deloitte Taiwan
cheliliaw@deloitte.com.tw

United States:
US tax reform achieves another significant milestone

Overview

US tax reform achieved a significant milestone last week when the Senate voted on December 2 to approve its version of comprehensive tax reform legislation. The approved legislation follows the broad contours of the measure that was reported out of the Senate Finance Committee on November 16 by providing permanent tax relief – including a significantly lower top rate – for corporations and temporary tax relief for individuals and passthrough entities, with those costs offset in part by eliminating or paring back dozens of current-law deductions, credits, and incentives.

Deloitte Tax's Global Employer Services group has published a summary of the potential impacts of tax reform to company mobility and rewards programs, including a side-by-side comparison of the current proposals.
URL: https://www2.deloitte.com/us/en/pages/tax/articles/tax-reform-global-mobility-human-resources-considerations.html?id=us:2sm:3na:gis:awa:tax:121517

You can also refer to *Tax News & Views*, December 2, 2017 for more details on the latest steps in the legislation process.
URL: http://newsletters.usdbriefs.com/2017/Tax/TNV/171201_1.html

Minor changes to Rewards and Mobility Programs

Though the final bill approved by the Senate included many late additions and modifications, these items did not significantly change the original Senate provisions that will impact mobility and rewards programs.

SALT and Alternative Minimum Tax

One noteworthy change in the final Senate proposal is the retention of the Alternative Minimum Tax (AMT). The House proposes to repeal the AMT entirely, while the Senate proposal would retain AMT with an expanded exemption amount.

Additionally, though earlier Senate proposals looked to repeal all deductions for state and local taxes, the final Senate proposal contains a proposal to allow deduction for up to $10,000 for state or local property taxes. No deduction would be allowed for state and local income taxes. This eliminates a key difference between the House and Senate proposals.

Deloitte's view

As we have stated in all previous alerts, these proposals have been moving quickly through the Congressional process and remain fluid. The final bill voted on by the Senate included some significant modifications to win support from wavering Senators, though these changes left the proposals impacting mobility and rewards programs largely untouched from the original Senate bill.

The bill approved by the Senate must now be reconciled with its counterpart approved in the House on November 16. This reconciliation will be handled through formal conference between the two houses of Congress, which is expected to begin the week of December 4. Republicans have expressed a strong desire to come to consensus and send legislation to the President for signing prior to the end of the year.

Although the Senate proposal's changes to corporate tax rates are effective for tax years beginning after 2018, most of the changes to individual taxpayers would take effect almost immediately with an effective date of January 1, 2018. These changes may require companies and individuals to act quickly to update internal systems and understand the impact to their organizations. Companies should continue to monitor these proposals closely to stay aware of developments and be ready for potential changes.

— Joel Eisenreich (Parsippany)
Principal
Deloitte Tax LLP
jeisenreich@deloitte.com

Grace Melton (Atlanta)
Partner
Deloitte Tax LLP
grmelton@deloitte.com

Gregory LaBorde (New Orleans)
Managing Director
Deloitte Tax LLP
glaborde@deloitte.com

Elizabeth Karcher (Milwaukee)
Manager
Deloitte Tax LLP
ekarcher@deloitte.com

Elizabeth Drigotas (Washington, DC)
Principal
Deloitte Tax LLP
edrigotas@deloitte.com

Michael Loskove (Chicago)
Managing Director
Deloitte Tax LLP
mloskove@deloitte.com

Michael Haberman (Parsippany)
Senior Manager
Deloitte Tax LLP
mhaberman@deloitte.com

Trisha Ocampo (Los Angeles)
Manager
Deloitte Tax LLP
tocampo@deloitte.com

Global Rewards Updates:
Belgium: Tax reporting and withholding in Belgium

Background

Recent audit activity and a recent Supreme Court case have shifted the landscape for Income and Social tax reporting and withholding for local Belgian subsidiaries.

Historically, many non-Belgian parent companies, offering equity incentives in Belgium, structured administrative practices to eliminate income and social tax reporting and withholding. We have observed the Belgian tax authorities have been taking an increasingly narrow view of the associate guidelines upon audit.

Income tax

The Belgian tax authority has recently been targeting for audit local Belgian employers with employees who receive equity awards from a foreign (non-Belgium) parent company.

When a non-Belgian parent company grants equity to the employees of the local Belgian subsidiary, if the local Belgian entity is not actively involved in the administration of employee equity, then no income reporting or PAYE withholding would be required. If no reporting is made in Belgium, the equity income would not appear on a Belgian wage certificate and no PAYE withholding would be applied. Employees would still be responsible to report the income from the equity in their personal tax return.

Where employees fail to accurately report the equity income on their individual filings, the tax authority has begun to more closely examine the income reporting and PAYE operations of the Belgian entity and specific attention is being paid to the level of intervention made by the Belgium subsidiary of a foreign parent company.

Recent audits have resulted in a number of Belgian subsidiaries failing the “no local intervention” test. “Intervention” for this purpose is broadly defined, and outlined in the existing Belgian regulations. Determination of an employer’s “active intervention” is based on multiple administrative and decision- making guidelines, most of which are subjective in nature. In practice, it can be very difficult to demonstrate zero intervention from the Belgian entity and companies are encouraged to carefully review their actual practices.

Authorities have the ability to look back up to 5 years in an audit. While the tax liability remains the obligation of the individual, the employer is also held liable when no withholding was originally operated (noting that it is easier to pursue the entity for all employees than to pursue each individual).

Social security

The Belgium Supreme Court issued a ruling in 2016 which was only recently published in late 2017, which held that income received as a result of services performed a Belgian entity is considered wages for social security purposes (regardless of any intervention by the local entity or serving as point of contact for plan operations questions) and accordingly such income is subject to Belgian social security contributions.

This substantially changes the reporting and taxation landscape in Belgium. The Court’s ruling determined that as soon as the employer has committed to grant a benefit (such as equity), the employee is entitled to receive this benefit as part of the terms of their employment.

Based on this new case law, the social security authorities may argue that equity granted by a foreign parent company to employees of a Belgian subsidiary company (even in absence of a recharge or any level of intervention by the local subsidiary) qualifies as salary if the employee is entitled to this benefit as terms of their employment. Any equity received by the employee would then be subject to statutory social security contributions.

It is important to note that social tax regulations are unchanged and state that in the absence of local intervention no social taxes are due. Despite this, there remains the very real risk that the position that employee and employer social taxes are not due will be challenged by auditors as a result of this Supreme Court case; as the Court ruling conflicts with local regulations, the reaction of auditors remain uncertain at this time.

Note: at the time of this update, the employee and employer social tax rates are uncapped at 13.07% and 30% respectively.

Deloitte’s view

Employers are encouraged to carefully consider the new audit environment and considering reporting and withholding on long term incentive plans in Belgium.

In particular, companies relying on the “no intervention” principle, are encouraged to test the local level of intervention and to consider conducting a mock audit. Employers that conclude to continue to operate no PAYE are encouraged to carefully document the basis of their decision making, to test that conclusion periodically, and to make sure employees are fully aware of their personal tax obligations.

Global Rewards Updates:
France: Timelines for 2017 French qualified equity plan reporting

Background

When qualified free shares or stock-options are granted pursuant to the French code of commerce, these awards benefit from the corresponding qualified special tax and social security treatment in France.

The absence of French ordinary employee and employer social security contributions results from compliance with mandatory reporting requirements and special employer contribution payments, which have to be made by the French entities employing the participants.

Further to the implementation of mandatory monthly reportings (*Déclaration Sociale Nominative – DSN*) in 2017, below please find a reminder of the applicable reporting requirements (as first discussed in our Global Rewards Update ("GRU") on February 12, 2016).

Requirements

1. Employer contribution payment upon grant or vesting (depending on the applicable regime)
2. DSN monthly filing or final annual DADS-U filing: The employer is required to report to the French authorities grants, free shares vestings, and stock option exercises that occurred in 2017:
    a. Where monthly reporting returns (*Déclaration Sociale Nominative – DSN*) have been filed under Phase 3 format for the whole 2017 tax year (January through December 2017):
        i. Reporting must be made in the DSN of the month of the event.
    b. Where a portion of the monthly reporting returns (Déclaration Sociale Nominative – DSN) have not been filed under Phase 3 format in 2017:
        i. Reporting must be made in the DSN of the month of the event and in the annual DADS that you will have to file before January 31st 2018.
3. Individual vesting / exercise certificates for the 2017 calendar year are to be provided to participants before March 1, 2018.

Deloitte's view

Companies which run French qualified equity plans should:

- Identify the applicable deadline for 2017 reporting for each French entity concerned.
- Ensure that an efficient process is determined for providing the necessary information to subsidiaries in France.
- Provide individual certificates before March 1, 2018.

Global Rewards Updates:
France: Draft 2018 finance and social tax bills on French qualified free shares regime

Background

As announced in our tax alert in September 2017, the highly- anticipated finance bill for 2018, presented by the French government on 27 September 2017, was enacted by one of the French Parliament Chambers on 24 October 2017. The social security draft bill was also enacted by one of the French Parliament Chambers on 26 October 2017. These draft bills, which remain subject to change until their final enactment, are expected to modify the tax and social security regimes related to qualified free share plans.

A new tax regime for qualified free share plans

Currently, for qualified free share plans approved after August 8, 2015, the gain realized at vesting is taxed at progressive tax rates. Taper relief also applies based on the holding period of the shares.

Under the draft bill, the gain realized at vesting would remain taxable at progressive rates, subject to a taper relief of 50% for gain up to EUR 300,000.

Global application of the single flat tax on investment income

As of January 2018, investment income such as interest, dividends, and capital gains on the sale of securities would henceforth be subject to a 30% flat tax rate, inclusive of additional social surtaxes (i.e., CSG of 17.2%) and income tax of 12.8%.

Taxpayers subject to a marginal tax rate lower than 30% may elect for application of the progressive income tax rates on their investment income. Additional contribution for high- income individuals (3% or 4%, depending on the amount of income) would however still be due.

Changes to wealth tax

The current wealth tax would be replaced by a tax applied only to real estate assets (*Impôt sur la fortune immobilière*) with a value over EUR 1.3 million as of 1 January 2018. As a result, shares acquired through an equity incentive scheme would be excluded from the wealth tax taxable basis.

A reduced employer contribution rate may be applicable with the social security bill

The tax and social regime applicable to qualified free shares was simplified by the Macron law enacted on 6 August 2015, which lowered the rate of employer contributions to 20% and moved the triggering event to the vesting of the shares. The tax bill for 2017 increased the rate to 30%.

The French representatives voted on 26 October 2017 for an amendment which aims to decrease employer contributions due upon vesting of the shares for awards approved by shareholders after enactment of the legislation. The amendment proposes to decrease the rate from 30% to 20%.

Deloitte's view

Companies which run French qualified equity plans should consider:

- Identifying the tax and social security regime that applies to their existing and future free share grants. This is due to successive tax and social security regime amendments and the potential to arbitrate between several existing regimes for their 2018 awards;
- Issuing appropriate communication to their employees in order to make them aware of the individual income tax and social security regimes applicable to their gains in France.