

Global Tax Update

India

Deloitte Tohmatsu Tax Co.

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1. Recent Changes to Employment and Business Visa

The government of India has taken various measures for liberalization, simplification and rationalization of the visa regime in India. We have summarized below the recent key changes from an employment and business visa perspective.

Head	Particulars
Minimum salary limit has now been fixed in Indian Rupees instead of US Dollars	<ul style="list-style-type: none"> ■ The annual minimum salary limit for an employment visa, is now fixed in Indian Rupees. Earlier, the annual minimum salary was in US dollars. Accordingly, as against the limit of USD 25,000 per annum, a revised threshold of INR 1,625,000 per annum, now applies. ■ Given the above change, it would be advisable that the assignment / employment contract captures the salary details in INR.
Form C requirements	<ul style="list-style-type: none"> ■ Most FRROs / FROs¹ are now insisting on filing of Form C in respect of rented accommodation of foreign nationals. ■ Additionally, we understand that Chennai FRRO is now insisting on departure / check-out particulars of foreign nationals to be reported in the online Form C. The other FRROs / FROs may also start insisting on the same.
Mandatory biometric recording at FRO Pune	<ul style="list-style-type: none"> ■ FRO Pune has started recording foreign national's fingerprints and iris scan during all services (registration, visa extension, etc.). We understand that this is currently not the practice at other FRROs / FROs.
Long term multiple entry Business visa	<ul style="list-style-type: none"> ■ The facility of 10 years long term multiple entry business visa for US, Canadian and Japanese nationals will continue. ■ The grant of multiple entry 5 years business visa will be issued with a stipulation, "Continuous stay during each visit shall not exceed 180 days and registration not required". ■ Biometric enrolment and interview will be mandatory for grant of multiple entry business visa

Note: Employment, business and related dependent visas have now been sub-categorized as against the earlier practice of issuing a single category of visa. Based on the type of visa requirement, application will have to be made accordingly.

¹ Foreigners Regional Registration Office

2. Relief for fund managers

In order to attract offshore Fund managers to relocate to India, the Government of India had in 2015, introduced a special tax regime for offshore fund managers in India. The special tax regime was to provide certainty that an offshore fund would not be exposed to Indian tax on its global income, merely because its fund manager is located in India.

As per the special regime, if the offshore Fund and the fund manager located in India meets the conditions stipulated therein, the fund would not be considered to have a business connection [akin to Permanent Establishment (PE)] in India and would not be considered a resident of India.

As an initiative towards relocating offshore fund managers to India and promoting foreign investments inflows, Central Board of Direct Taxes (CBDT), the apex tax administrative authority in India, vide notification² relaxed certain above-mentioned conditions such the fund would not be considered to have a PE in India.

As per the said notification, it was notified that specific conditions under section 9A(3) of the Income-tax Act, 1961 (Act) [i.e., clauses (e), (f) and (g) of the Act³] would not be applicable to investment fund set up by FPIs⁴ registered as Category-I and Category-II under the Securities and Exchange Board of India (Foreign Portfolio Investors) Regulation, 2014.

Further, under the provisions of section 9A of the Act, one of the conditions for the fund to claim benefit under the said section is that the fund investing in India should be established or incorporated or registered in a country or specified territory notified by the Central Government. In this regard, CBDT notified vide notification⁵ notified the said countries or specified territories (Japan is one of the notified countries).

² [\[Notification No. 77 /2017/F. No. 142/15/2015-TPL\] dated 3rd August 2017](#)

³ Clause (e): the fund has a minimum of twenty-five (25) members who are directly or indirectly, not connected persons.

Clause (f): any member of the fund along with connected persons shall not have any participation interest, directly or indirectly, in the fund exceeding 10%.

Clause (g): the aggregate participation interest, directly or indirectly of ten or less members along with their connected persons in the fund, shall be less than 50%

⁴ FPI - category I includes Central banks, Government and Government agencies, sovereign wealth Funds, international organizations etc. FPI – category II includes regulated broad based funds including Mutual Funds, Investment Trusts, Insurance / reinsurance companies, regulated Asset Management Companies, Investment Managers / Advisors, Portfolio Managers, Banks, University Funds, Pension Funds

⁵ [Notification No. 78/2017/F. No. 142/15/2015-TPL dated 3rd August 2017.](#)

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