



Tax Alert

Administrative and policy changes in the management of Work Permits regime

The Government of Kenya, through the Cabinet Secretary, Ministry of Interior and Coordination of National Government, has issued a report on the just concluded Work Permit verification exercise recently carried out during the period from 21 May to 22 July 2018.

The report indicated that 26,829 permits were verified, with another 2,760 permits accounted for but not verified due to various legitimate reasons e.g. unavailability of the permit holders due to work or travel. In addition, some 3,434 permits remained unverified as the holders did not show up for the exercise, hence deemed to be in the country illegally.

The details of individuals who did not present themselves for the work permit verification have been shared with the relevant authorities, as they are now deemed to be in the country illegally. These individuals have been watch-listed and their details circulated to all ports of entry.

Based on the above, and in line with the Government's bid to improve service delivery on the issuance of work permits and all other documents issued by the Department of Immigration Services, the government issued its recommendations for administrative and policy changes in relation to the management of Work permits which include, but are not limited to, the below:

1. The Government will now set strict guidelines on the issuance of passes and Work Permits
2. Foreigners coming to work in Kenya on tourist visas will face severe penalties. The same will also apply to companies and individuals allowing foreigners to commence work using tourist visas as this is illegal

3. The Government will now maintain an updated digital database of all entry permit holders in the country
4. A committee to recommend the approval of passes and work permits will now be established
5. In line with global best practice, work permit applicants will now be required to lodge their applications from outside Kenya, and are only to come to Kenya once the approval is granted
6. The Government has set up a dedicated telephone line to enable the reporting of foreigners working in Kenya without the relevant permits

Our view

The directive has far-reaching implications for expatriates coming to work in Kenya, as well as the companies and organisations bringing in these expatriates. Employers will now be required to lodge work permit applications before they can allow their expatriates to commence assignments in Kenya.

It is also unclear as to whether the Special pass document will be used as a short term permit in the interim period before the issuance of the work permit, or as a measure to bridge the gap between the expiry of a work permit and approval of the application for renewal of the permit, as has been the practice. We shall communicate further on the special passes once we receive clear guidelines on the same.

The above guidelines and policies will apply in conjunction with the already existing guidelines on issuance of Work Permits and Passes, with a view to ensure that they are only issued to foreigners with skills not locally available.

Regards,

Fred Omondi

Tax & Legal Leader, Deloitte East Africa



Deloitte Place
Waiyaki Way, Muthangari
P. O. Box 40092 - GPO 00100
Nairobi, Kenya

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee ("DTTL"), its network of member firms, and their related entities. DTTL and each of its member firms are legally separate and independent entities. DTTL (also referred to as "Deloitte Global") does not provide services to clients. Please see www.deloitte.com/about for a more detailed description of DTTL and its member firms.

© 2018 Deloitte & Touche