

Moscow, May 26, 2010

Changes in Migration law of the Russian Federation

With this letter we would like to draw your attention to considerable changes in migration legislation of the Russian Federation which are to come into force as of July 1, 2010. The changes will affect the procedure of employment of foreign nationals who from July 1 will be defined by a category of "highly qualified specialists". The law defines "highly qualified specialists" as foreign nationals whose annual income paid in accordance with the labor / civil law agreement signed with a Russian employer exceeds 2 million rubles gross (which is approximately 65 000 USD and 53 000 EUR) and who have work experience, skills and considerable achievements in the field.

The changes will affect highly qualified specialists working just for Russian legal entities and Branch offices of foreign legal entities accredited on the territory of the Russian Federation that have not violated the rules and procedures of foreign nationals employment within 2 (two) years preceding the application.

Representative offices of foreign legal entities accredited on the territory of the Russian Federation will still need to go through all the stages of work permit process in order to hire a foreign national (even if a foreign national can be considered as highly qualified), unless otherwise stipulated by bilateral agreements with a specific country. We believe that Russia will hardly have such kind of agreement with a lot of countries; however we will carry out the research and will provide you with the list of these countries (if any).

The following procedure simplifications will be applicable for a new category:

- No more quota applications for work permits and work invitation letters are required in order to initiate the whole process
- No more employment permits are required in order to hire a foreign national, and
- No more requirements in certifying the educational level of a foreign national in order to obtain the work permit.

The following advantages will be applicable for this category:

- The period of work permit processing will be reduced to 14 (fourteen) business days
- The validity of the work permit and work visa consequently will be increased up to 3 (three) years, provided a labor / civil law agreement with suspensive condition is signed by both parties and filed at the moment of application
- The work permit can be issued and valid for several regions of the Russian Federation, provided a foreign national actually works in these regions
- The law introduces a new term of "work permit extension". An application for extension should be made 30 (thirty) days before the expiration of a current work permit, provided the labor / civil law agreements with a foreign national is prolonged as well.
- A foreign national will be entitled to apply for the permanent residence permit as well as his dependant family members at once (omitting the stage of temporary residence permit and associated requirements at all), and
- 13% individual income tax rate will be applicable to a foreign national from the very first day of his employment opposed to 30% which is in use now until a foreign national stays on the territory of the Russian Federation for at least 183 days.

Evidently that providing such great benefits to employers of highly qualified specialists, the Government will toughen the requirements and increase the employers' obligations. Thus, the following obligations can be distinguished:

- Full private medical insurance should be provided to highly qualified specialists and their accompanying family members
- Registration of each highly qualified specialist with a tax inspectorate

- Notification of the migration authorities on the registration with the tax inspectorate within 30-day term upon work permit issue
- Quarterly notification of the migration authorities on salary payments and tax deductions, as well as in cases of unpaid vacation exceeding period of 1 (one) month within a year.

Here it should also be stated that in case of non-fulfillment of its obligations to a highly qualified employee or violation of any provisions of the labor / civil law agreement signed with him / her, a company will not have the possibility to use this work permit category for a two year period.

Besides, it should be added that the list of quota exempted positions will be approved annually before March 31 of the current year for the coming year which will give companies opportunity to plan better the whole process of work permit obtaining for their foreign employees.

Moreover, the new law does not only select a new category of highly qualified specialists, but stipulates absolutely new procedure for foreign nationals not requiring visa who work for individuals. The law introduces the term "license" which will replace work permit and will enable non-visa foreign nationals to be employed by Russian citizens. The license will be issued for 1 – 3 (one to three) months and can be extended for subsequent 3-month (three) period provided the correspondent tax payment is made by a foreign national in due time and manner.

The last but not the least, de-registration procedure is going to be simplified as well. Thus, when a foreign national travels within the territory of the Russian Federation, it is no longer required to de-register such a foreign national, as it will be done by migration authorities as soon as s/he is registered in a new place of stay.

Apparently all these changes should have positive impact on the image of the Russian Federation in the business community and increase the interest to Russia from foreign investors. However, right now it is very difficult to predict and foresee how all these changes will be practically implemented since at the moment the Federal Migration Service and other state authorities are working on framing correspondent by-laws and procedures.

We will keep you informed of all new developments.

Best regards,

Migration Law Department
VISTA Foreign Business Support.