


Amendments to legislation on the hiring of foreign employees



July 1st, 2010

On **1 July 2010**, amendments to a number of legal acts governing the hiring and employment of foreign citizens in the Russian Federation will come into effect, in particular, amendments to Federal Law No. 115-FZ on the Legal Status of Foreign Citizens in the Russian Federation of 25 July 2002 (the “Federal Law”), and Federal Law No. 114-FZ on the Procedure for Entry into the Russian Federation and Exit from the Russian Federation, the RF Tax Code, and certain other legal acts of the Russian Federation.

Practical application of the new version of the Federal Law will require additional explanatory and clarificatory secondary legislation, which is expected to be adopted in the near future. 

Procedure for hiring highly qualified foreign specialists introduced

The principal amendments affect the procedure for hiring highly qualified foreign specialists. For the purposes of the amendments, highly qualified foreign specialists are foreign persons with a salary (remuneration) of more than two million roubles a year under an employment contract or civil-law contract. In all other respects the employer or client remains free to determine the competence and qualifications of foreign citizens they wish to hire as highly qualified specialists.

Employers can hire highly qualified specialists without a preliminary quota application and without obtaining a foreign worker hiring permit, thereby saving considerable time and expense compared to the regime for hiring foreign specialists prior to the amendments.

Work permits will be issued to highly qualified specialists for the term of their employment or civil-law contracts, but not for more than three years. Work permits may be repeatedly extended for the duration of the employment or civil-law contract, but not by more than three years each time. If a highly qualified specialist works in two or more regions, and that is reflected in his employment or civil law contract, a work permit valid for all such regions can be issued. This marks a significant departure from the previous practice, whereby separate work permits were required for each



SALANS

www.salans.com

region. The new rules provide that work permits for highly qualified specialists should be issued within 14 working days of application to the federal executive authority for migration.

Highly qualified specialists (and members of their families) will be issued with visas for the duration of their employment or civil-law contracts, but not more than three years from the date the foreign citizens enter the Russian Federation, with subsequent extensions for the duration of the contract, but not by more than three years each time. Highly qualified specialists and their families will also be eligible for a simplified procedure for obtaining RF residence.

The amendments place certain obligations on employers hiring highly qualified foreign specialists, in particular:

- providing voluntary medical insurance (a provision for such insurance must be made in the highly-qualified foreign specialist's employment contract or civil law contract);
- notification to the migration authorities of the highly qualified specialist's tax registration within thirty days of receiving a work permit;
- notification to the migration authorities of payments of salary to highly-qualified specialists, of the termination of employment contracts or civil-law contracts, and of granting unpaid leave of more than one calendar month, on a quarterly basis throughout the year.

Pursuant to amendments to the RF Tax Code that entered into force 21 May 2010, the income of foreign citizens from working as highly qualified specialists will be subject to Russian personal income tax at the rate of 13%. Therefore, taxation of this form of income will not depend on whether a foreign citizen has resident or non-resident status.

The federal law establishes and introduces a number of other points concerning hiring and employment of highly qualified foreign specialists.

Special rules for representative offices

The above rules on hiring highly qualified specialists do not apply to duly accredited representative offices of foreign legal entities in the Russian Federation (although they do apply to branches of foreign legal entities).

Duly accredited representative offices of foreign legal entities are entitled to hire foreign employees in the Russian Federation, within the limit agreed at accreditation of the representative office, and on the basis of reciprocity in accordance with international treaties of the Russian Federation. In practice, this means that it will be necessary to analyze the need for hiring



SALANS

www.salans.com

permits and work permits for employees of foreign representative offices on a country-by-country basis.

Other amendments

Other amendments concerning the employment of foreign citizens by individuals were also made to the Federal Law and certain other legal acts.

If you have any questions or require more detailed information, please contact us:

Maria Landau

Associate

E: mlandau@salans.com

Kazbek Sasiyev

Associate

E: ksasiyev@salans.com

Salans Moscow

Balchug Plaza, Ul. Balchug, 7

115035 Moscow

Russian Federation

T: +7 495 644 0500

F: +7 495 644 0599

E: moscow@salans.com

Distribution

We hope that you find this Alert useful. If, however, you would prefer not to receive any or all Alerts, please let us know at cis@salans.com and we will update our mailing list accordingly. If you wish to sign up a colleague to this list, please send their contact details to the above address.

This Alert does not constitute legal advice with respect to any matter or set of facts and may not be relied upon for such purposes. Readers are advised to seek appropriate legal advice before entering into any transaction, making any determination or taking any action related to matters discussed herein. No part of this Alert may be copied or quoted without the prior written consent of Salans.

© 2010. All rights reserved



SALANS

www.salans.com