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### **Foreigner Visa Administration Law Consultative Draft Sets Detailed**

#### **Rules**

About one year after the introduction of China's new Exit-Entry Administration Law (the "Law") which will take effect from July 1 this year, the Chinese authorities issued the <<Consultative Draft of the Administration Regulations on the Entry-Exit of Foreigners>> (the "Consultative Draft") last month.

The Consultative Draft sets out the specific types of visas to be issued to foreigners and how their stays in China are proposed to be managed under the Law. When the draft is ratified and effective, it will replace the existing implementation rules on foreigners as revised in the year 2010.

#### **Introduction**

Building on the existing practice, the Consultative Draft introduces a relatively more systematic and expanded set of categories of visa types, catering to the various needs of foreigners visiting and staying in China. Sub-categories (types 1 and 2) are used to a greater extent than before, distinguishing short and longer stays in China. Long and permanent stays in China would require further application of permits at different levels of government offices.

#### **Visa categories and sub-categories**

According to the Consultative Draft, visas will be issued in accordance with foreigners' specific nature of affairs for their entries into China. Apart from diplomatic visas, they are briefly categorized as follows:

- C visa: for cross-border transportation vehicle crew members and family members
- D visa: for permanent residents
- F visa: for non-commercial exchange activity personnel
- G visa: for transit personnel
- J visa: for reporters; J1 sub-category for resident reporters and J2 for short visits
- L visa: for tourists
- M visa: for personnel visiting China for business and trade activities
- Q visa: for family reunion; Q1 for residency applicants and Q2 for short stays
- R visa: for high level or urgently needed talents; R1 for resident and R2 for visiting
- S visa: for personnel taking care of private matters or receiving medical treatment;
- X visa: for students; X1 for long term and X2 for short term
- Z visa: for personnel working in China; Z1 for work exceeding 90 days and Z2 for work not exceeding 90 days

Although the new system may seem to be a bit more complicated than before, it is probably better categorized and more detailed defined, which signifies the government's determination to better manage foreigners' visa administration in China. HR management should ensure proper monitoring and compliance of these regulations by their foreign staff and related personnel.

### **Special Talents**

On the newly introduced 'Special Talents' category visa, it seems that the definition of 'special talents' is still not very clear, pending further elaboration to be formulated and provided by the State Council in accordance with the national policies and directions. From the context of the Consultative Draft, it encompasses high level and urgently needed special talents.

Applications for residence by such talents may have to be supported by certification by the relevant government departments above the provincial level.

### **Information Sharing**

It is the intention of the government to have the relevant visa information shared by various ministries and departments in China. However, to what extent and how the approach is to be adopted still remains to be seen.

From the categorization of the visa types, since the nature and duration of foreigners' stays in China may somehow coincide with some of the principles and bases for levying of Chinese individual income taxation, perhaps it would help to facilitate foreigners' tax administration in China if visa information is shared among the departments.

## Action

As advised in our previous Communique, it is not only in the employers' best interest to ensure proper compliance with the Law by their foreign employees, but also important for the individuals themselves, because their other rights and activities in China, including dealings in real estate properties or vehicles etc, may be affected. Consequently, HR management should closely monitor the development of such law administration in China, to ensure a proper working environment for their foreign personnel.

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