

June 16, 2015  
2015-076

## flash Alert

A Publication for Global Mobility and Tax Professionals by KPMG's Global Mobility Services Practice

### **United Kingdom – Sponsorship Certificates Run Out; 1<sup>st</sup> Time Since 2011**

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On 11 June 2015, the cap on Tier 2 (General) visas was reached for the first time since its implementation in April 2011. Many Restricted Certificates of Sponsorship were not issued to U.K. employers who will now have to communicate this within their organizations and overseas businesses to evaluate the impact of the delay (or the prevention of entry) into the United Kingdom of potential employees.

How did this happen? Due to a trend of relatively high requests for U.K. Tier 2 (General) Certificates in April, the allocation for the month of April 2015 was re-balanced.<sup>1</sup> This resulted in fewer Certificates available per month for the remainder of the year. Historically, each month invariably saw a surplus of unallocated Certificates; the month of May 2015 only saw a small surplus roll-over of Certificates into June 2015.

### **Why This Matters**

This unprecedented development impacts the potential for bringing certain migrants in this category into the United Kingdom. Where applications for Certificates were refused this month, the earliest sponsors may be able to secure a Certificate will be on the 11<sup>th</sup> of the following month (where a fresh application is made before the 5<sup>th</sup> of that month).

However, with those facing refusals in June likely to reapply in July, employers may find themselves unable to sponsor migrants for some roles going forward indefinitely.

### **Background**

There is a wide variety of routes by which foreign nationals can come to the United Kingdom. For the internationally mobile individual, the Tier 2 category, which replaced the U.K. Work Permit scheme, is by far the most utilized route. Under the Tier 2 category, the entity sponsoring the individual will first need to obtain a Certificate of Sponsorship to assign to the individual before being able to make a valid application.

### ***Restricted or Unrestricted Certificates of Sponsorship***

A Restricted Certificate of Sponsorship (Certificate) is required where an individual is not a high earner (earns under £155,300 per annum) or is a Tier 4 dependant switching into the Tier 2 (General) category. An Unrestricted Certificate of Sponsorship is required for a new hire who is a high earner, is applying to extend his or her existing Tier 2 (General) leave, is a Croatian national, or is a Tier 4 student who has graduated in the U.K. and is switching to Tier 2 (General).

Tier 2 (Intra-Company Transfer) is not affected as there are no restrictions on the number of available Certificates of Sponsorship used in this sub-category.

### **Availability of Restricted Certificates of Sponsorship**

20,700 Tier 2 (General) Certificates are made available on 6 April each year and these Certificates are subdivided and released on a monthly basis. Any unallocated Certificates are carried over to the following month up until 5 April in the following year when the allocation is reset to 20,700. The allocation for the month of April 2015 was re-balanced from 1,725 to 2,550. This resulted in 75 fewer Certificates available per month for the remainder of the year (i.e., 1,650).<sup>2</sup> And, as mentioned above, the month of May 2015 only saw a surplus roll-over of 8 Certificates into June 2015.<sup>3</sup>

Now, the U.K. immigration system has reached a cap for Certificates of Sponsorship – the first time since April 2011, when the cap was implemented.

#### **KPMG Note**

Once the cap is reached, the Home Office will start using the points-based allocation system to determine which migrants get Certificates in that month. This also could cause a knock-on effect as the lack of unallocated Certificates to be rolled over will coincide with the increased demand for Certificates from sponsors who were not able to secure them in the preceding month.

### **How Does the Points-Based Allocation System Work?**

All applications for Certificates must score a minimum of 32 points from the table below. All eligible applications will be prioritized using the points scored in the table below.

As the applications relating to Ph.D.-level roles and roles listed on the Shortage Occupation List (SOL) are relatively uncommon, most applications will score 30 points for a completed Resident Labour Market Test (RLMT), plus the designated points for the relevant salary band to make up a minimum of 32 points.

<b>Route</b>	<b>Points</b>	<b>Salary (Mandatory)</b>	<b>Points</b>
<b>SOL</b>	75	£20,000 - £20,999	2
<b>Ph.D. level posting and RLMT</b>	50	£21,000 - £21,999	3
<b>RLMT</b>	30	£22,000 - £22,999	4
		£23,000 - £23,999	5
		£24,000 - £24,999	6
		£25,000 - £25,999	7
		£26,000 - £26,999	8
		£27,000 - £27,999	9
		£28,000 - £31,999	10
		£32,000 - £45,999	15
		£46,000 - £74,999	20
		£75,000 - £99,999	25
		£100,000 - £149,999	30

## KPMG Note

### ***Applications: Those Rejected, Those Approved***

Although an application for a Certificate must achieve at least 32 points, amongst June's applications, roles scoring less than 50 points have been rejected. Effectively this means non-Ph.D. non-SOL roles need a gross annual salary package of £46,000 and above to be approved.

It appears that over 394 applications fell within the salary package band of £32,000 - £45,999 per annum. As there are no rules of priority in relation to applications that score the same number of points, all the applications for roles falling within the £32,000 - £45,999 were refused. The result is that the 394 remaining Certificates have been carried over into July's allocation.

### ***Options for June, July***

Following the exhaustion of Certificates for June 2015, we expect a high volume of applications for Certificates with gross annual salary packages of between £32,000 and £45,999 as sponsors that were unable to secure Certificates in June are likely to re-apply in July.

If the number of applications for Certificates for roles with gross annual salary packages of £46,000 and above remains as high as in June, we are likely to see further blanket refusals for applications with corresponding salary packages in the bands immediately below it. However, the roll-over of 394 Certificates from June into July will go some way to restoring the imbalance.

Going forward, it would be prudent to consider increasing salaries to enhance the likelihood of securing a Restricted Certificate of Sponsorship. However, it must be noted that any increase in salary must still be consistent with the level advertised in the RLMT. Furthermore, if there is a market-wide move in this direction combined with still-limited numbers of Certificates, all that may be achieved is wage inflation for new Tier 2 (General) roles.

## Conclusion

While the Tier 2 (Intra-Company Transfer) route remains unaffected, the quota system intended to limit the number of migrants entering the U.K. under the Tier 2 (General) route has now become a key factor to consider. Businesses will need to take this into account in relation to their prospective assignees to the United Kingdom.

### *Footnotes:*

1 For further information on the allocation figures, see:

<https://www.gov.uk/government/publications/employer-sponsorship-restricted-certificate-allocations/allocations-of-restricted-certificates-of-sponsorship> .

2 Ibid.

3 Ibid.

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