Relaxation of immigration requirements to attract foreign talent

Regulations discussed in this issue:

- Implementation rules issued by the Exit-Entry Administration Bureau of Shanghai concerning the immigration measures introduced by the Ministry of Public Security
- Immigration measures introduced by the Ministry of Public Security supporting the establishment of Shanghai Science and Technology Innovation Center
- Decision of the Ministry of Public Security on expanding the type of enterprises eligible for foreigners to apply for the permanent residency in China
- Decision of the State Council on revising the administrative measures governing Chinese citizens travelling to and from the region of Taiwan （Decree of the State Council No. 661）

Background

In June 2015, the Ministry of Public Security (MOPS) and the State Council introduced a series of relaxed policies and simplified procedures to encourage foreigner individuals and residents from Hong Kong, Macau and Taiwan to take up employment, start up new business and reside in mainland China.

These policies and measures seek to establish an efficient and effective platform for companies to attract and retain foreign talent in China.

Shanghai is first to implement relaxed measures

In the spirit of establishing a global science and innovation center in Shanghai, the Exit-Entry Administration Bureau of Shanghai took the lead in the trial of new exit and entry measures which MOPS introduced on 1 July 2015. The measures are expected to be rolled out gradually in other parts of China after the trial in Shanghai.

Key measures are summarized below：

Simplifying visa application procedures for those employed in Shanghai

Foreigners who meet the following criteria can obtain the relevant class of visa at the exit-entry bureau at the Shanghai ports on arrival:

– Highly skilled talent recognised by a foreign expert administration authority, or those sponsored by high-tech or innovation companies recognised by the Shanghai Science and Technology commission (R visa)

– Talent possessing an employment license for foreigners（Z visa is applicable）

Shortening residence requisite for granting long-term residence permit and removing age restriction on employing talent

Foreigners who are on their second employer sponsored/residence permit issued in Shanghai, and comply with Chinese laws and regulations are now eligible to apply for a five-year employer sponsored residence permit upon renewing their second residence permit.

Talent from Hong Kong and Macau, and highly skilled experts recognised by the relevant authorities will no longer be subject to an age limit of 60.

Providing transparency on the threshold for permanent residency application

Foreigners who fall within the scope outlined below are eligible to apply for permanent residency in China：

- Meet the threshold for annual income and individual income tax payment[1],and have worked in Shanghai for at least four consecutive years and resided in China for at least six months of each of those years
- Are recognised as highly skilled talent by the foreign expert administration authority -- or those sponsored by high-tech or innovation companies which are recognised by the Shanghai Science and Technology commission -- and hold an employer- sponsored five-year residence permit, and have worked in Shanghai for a period of three years (processing time for the application is shortened to 90 days)

Enhanced support for entrepreneurs and highly skilled talent

Foreign students who attained tertiary education qualifications in China and intend to set up business in Shanghai can apply for a two-year visa under the category of "personal-affair—entrepreneurship". They may also apply for an employer sponsored residence permit if employed by an employer in China during the start-up phase.

Foreigners who intend to invest or start up business in Shanghai are eligible to apply for a S-visa with the Shanghai port exit-entry authorities and convert it to a residence permit under the category of personal-affair-entrepreneurship on arrival in Shanghai.

Highly skilled foreign talent who are PRC permanent residents or hold an employer sponsored residence permit can sponsor their domestic helper in obtaining a residence permit under the category of personal-affair.

In addition, Shanghai authorities will also release guidelines for special talent from Hong Kong and Macau and their accompanying family to secure long-term residency status in Shanghai, as well as extending the validity period from 72 to 144 hours of transit visas for nationals of certain countries.

More employers are eligible to sponsor for permanent residency application

Beginning 8 June 2015, the following seven types of enterprises are recognized by MOPS as employers eligible to sponsor their foreign employees for PRC permanent residency application:

- National laboratory
- National key laboratory
- National engineering laboratory
- National engineering research center,
- National level enterprise technology center
- National engineering technology research center
- Foreign-invested R & D center.

Foreigners who have attained certain professional titles and are employed by one of the eligible enterprises for four consecutive years can apply for PRC permanent residency if they have resided in China for at least three of the four-year period and have a good tax payment record.

[1]2015 threshold: Minimum annual income of RMB600, 000 with annual individual income tax of more than RMB120,000. The threshold will be adjusted annually based on the average salary and individual income tax of the Municipality of Shanghai for the preceding year.

Removing entry permit requirement for Taiwan residents

According to Decree of the State Council No. 661, effective 1 July 2015, Taiwan residents can enter, exit and stay in mainland China with a valid Travel Pass without the need to obtain additional entry permit.

Taiwan residents who hold a five-year validity Mainland China Travel Pass can use the self-assist channel for clearing customs after registering with the frontier inspection office at the port on arrival. Taiwan residents without valid immigration documents can apply for single-entry Mainland China Travel Pass at exit-entry administration bureau upon arrival.

Taiwan residents who intend to work in mainland China are still subject to work permit application formalities.

KPMG observation

It is worth noting that since the implementation of Ordinance on the Administration of Entry and Exit of Foreign Individuals in China from 1st September 2013, relevant authorities have gradually issued the guidelines on R visa application, aiming to attract qualified foreign talent to China and to establish a scientific and innovation centre.

In light of these new measures, companies and individuals should familiarize themselves with the application procedures and timeframe and make relevant adjustments. At the same time, tax implications triggered by these new measures should not be overlooked.

From an individual income tax perspective, foreigners who are not domiciled in China are subject to PRC tax on their Chinese sourced income. According to the Implementation Rules on the Individual Income Tax Law of the People's Republic of China, an individual domiciled in China is defined as an individual who by reason of his household registration, family or economic interests, habitually resides in China. At this stage, it is unclear on whether obtaining PRC permanent residency will automatically assume the foreign individual's family or economic ties are closer to China and therefore trigger worldwide taxation for the individual. We await the authorities to clarify this in order for foreign individuals to make informed decisions.

We recommend companies make necessary adjustments to the internal policies based on the recent new measures to effectively manage the employment, retention of foreigners in China, as well as the associated cost.

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