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**People's Republic of  
China – Liberalizing  
Immigration Requirements  
to Attract Highly-Skilled  
Talent**

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## flash Alert

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In June 2015, the Ministry of Public Security (MOPS) and the State Council of the People's Republic of China ("China" or "PRC") introduced a series of liberalized policies and simplified procedures to encourage foreign individuals and residents from Hong Kong, Macau, and Taiwan to take up employment, start up new businesses, and reside in mainland China.

### Why This Matters

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

Global mobility professionals, immigration advisers, employers, their employees coming to live and work in China, and individuals interested in permanent residency in China should understand the new rules and procedures outlined in this newsletter.

### Shanghai Is First to Implement Liberalized Measures

With the aim 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.<sup>1</sup> 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 recognized by a foreign expert administration authority, or those sponsored by high-tech or innovation companies recognized by the Shanghai Science and Technology commission (R visa).
- Talent possessing an employment license for foreigners (Z visa is applicable).

#### ***Shortening Residence Requirements 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 recognized 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

- They must meet the threshold for annual income and individual income tax payments<sup>2</sup> 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.
- They are recognized as highly-skilled talent by the foreign expert administration authority – or those sponsored by high-tech or innovation companies which are recognized 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 a business in Shanghai are eligible to apply for the S-visa with the Shanghai port exit-entry authorities and convert it to a residence permit under the category of “personal-affair – entrepreneurship” on their 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, the Shanghai authorities will also release guidelines for special talent from Hong Kong and Macau and their accompanying family members 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 Applications**

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 applications:

- 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 years of the four-year period and have a good tax payment record.

### 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 permits.

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 a single-entry Mainland China Travel Pass at the exit-entry administration bureau upon arrival.

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

#### KPMG Note

It is worth noting that since the implementation of Ordinance on the Administration of Entry and Exit of Foreign Individuals in China from 1 September 2013, the authorities have gradually issued guidelines on R visa applications, aiming to attract qualified foreign talent to China and to establish a scientific and innovation center. (For related coverage, see [Flash International Executive Alert 2012-227](#), 14 December 2012.)

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 source 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' clarification of this.

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

#### Footnotes:

1 (i) Implementation rules issued by the Exit-Entry Administration Bureau of Shanghai concerning the immigration measures introduced by the Ministry of Public Security. (ii) Immigration measures introduced by the Ministry of Public Security supporting the establishment of Shanghai Science and Technology Innovation Centre. (iii) Decision of the Ministry of Public Security on expanding the type of

*Footnotes (cont'd):*

enterprise eligible for foreigners to apply for permanent residency in China. (iv) 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).

2 2015 threshold: Minimum annual income of RMB 600, 000 with annual individual income tax of more than RMB 120,000. The threshold will be adjusted annually based on the average salary and individual income tax of the Municipality of Shanghai for the preceding year.

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This article is excerpted with permission from "Relaxation of Immigration Requirements to Attract Foreign Talent," in *China Tax Alert* (August 2015), a publication of the KPMG International member firm in the People's Republic of China. For the English-language version, click [here](#). For the Chinese-language version, click [here](#).

*Please note that KPMG LLP (U.S.) does not offer immigration services.*

### **Labor Law and International Assignments Survey for You to Take**

We invite you to take a brief survey prepared by the Legal Services team\* within the KPMG International member firm in Germany. This is a benchmarking survey regarding multinational organizations' global labor law awareness and practices. To take the survey, click [here](#).

The aim of this short [survey](#) is to gain insight and provide benchmarks on global labor law practices and considerations in the context of international assignments. This will enable organizations to keep abreast of trends in this oft-overlooked area and to identify market-standard practices of benefit to both the organization and the assignee.

The survey is also accessible on mobile devices and should take no longer than 10 – 15 minutes to complete.

**The closing date for the [survey](#) is soon!** Results can be provided upon request.

*\* There are Legal Services teams present in over 50 KPMG International member firms around the world, working along-side Global Mobility Services tax and immigration professionals to help employers make sense of and stay compliant with the labor rules and practices that apply to their assignees working in a cross-border context. **Please note that KPMG LLP (U.S.) does not offer services related to matters of labor law.***

The information contained in this newsletter was submitted by the KPMG International member firm in the People's Republic of China. The information contained herein is of a general nature and based on authorities that are subject to change. Applicability of the information to specific situations should be determined through consultation with your tax adviser.

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