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United Kingdom – Proposed Changes to Function of Tier 2 Limit

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The Home Office in the U.K. has announced it will be changing the salary bandings for the purposes of deciding how to allocate Restricted Certificates of Sponsorship (RCoS), which allow new hires to obtain U.K. working visas in the Tier 2 (General) category.¹

Background and Proposed Changes

For the past three months, the monthly quota on RCoS have been over-subscribed.² The bandings under which points are allocated are contained within a table and have increments of £1,000 at lower salary levels. However, at the salary levels where the threshold has fallen in June and July, the bandings are wider and have increments of £4,000 or more. The result is that many RCoS requests have been refused because too many have fallen into the wider threshold bands to allow them to be approved.

The proposed changes mean that these wide bands are going to be divided into smaller salary bands with £1,000 increments so that the Home Office maximizes the number of RCoS that can be allocated against the number that are available. The overall annual cap of 20,700 will remain the same. The changes have been implemented by the Home Office through a revision of the table to increase the number of salary bands thereby ensuring that a greater number of RCoS can be allocated each month.

Why This Matters

Those affected by the salary bandings will be employers who wish to sponsor migrant workers with a salary of less than £155,300 per annum and to sponsor Tier 4 dependents who apply to switch into the Tier 2 category to take up skilled work.

The proposed changes and the revised table should help mitigate the current problem of over-subscription as there will be more applications approved each month. It will reduce the over-subscription of the monthly quota and the need to reapply the following month thereby reducing the delay from an employer's and employee's point of view. Employees moving to the U.K. will have more certainty as to when they can submit their application, as well as increased clarity around the number of certificates available according to the points band they fall in. Furthermore, it is a positive change for employers as there is reduced need to inflate salaries to meet high bands.

Home Office Taking Steps to Mitigate Over-Subscribing Allocations

The allocation of an RCoS is an essential step in the process of bringing in new hires from outside of the United Kingdom. In the months where the allocations were over-subscribed, the Home Office has allocated the RCoS only to those scoring the higher number of points. The points awarded follow a set criteria where the proposed salary package for a role/position plays a key determining factor. Essentially, roles/positions with higher salary packages are prioritized over those with lower salary packages.

With the exception of shortage occupations and occupations at Ph.D. level, the current points table, as set out in our previous *Flash Alert*³, dictated that in June 2015, requests for RCoS offering salaries lower than £46,000 per annum (less than 50 points) were refused, and in July 2015, RCoS offering salaries lower than £32,000 per annum (less than 45 points) were refused, and in August, RCoS offering salaries lower than £24,000 (less than 36 points) were refused⁴.

The proposed new points system can be seen in the revised table below:

Type of job	Points	Salary	Points
Shortage occupation	130	£100,000 - £155,299.99	60
		£75,000 - £99,999.99	55
Ph.D.-level occupation code and job passes Resident Labour Market Test or an exception applies	75	£70,000 - £74,999.99	50
		£65,000 - £69,999.99	45
		£60,000 - £64,999.99	40
		£55,000 - £59,999.99	35
		£50,000 - £54,999.99	30
Job passes Resident Labour Market Test or an exception applies	20	£45,000 - £49,999.99	25
		£44,000 - £44,999.99	24
		£43,000 - £43,999.99	23
		£42,000 - £42,999.99	22
		£41,000 - £41,999.99	21
		£40,000 - £40,999.99	20
		£39,000 - £39,999.99	19
		£38,000 - £38,999.99	18
		£37,000 - £37,999.99	17
		£36,000 - £36,999.99	16
		£35,000 - £35,999.99	15
		£34,000 - £34,999.99	14
		£33,000 - £33,999.99	13
		£32,000 - £32,999.99	12
		£31,000 - £31,999.99	11
		£30,000 - £30,999.99	10
		£29,000 - £29,999.99	9
		£28,000 - £28,999.99	8
		£27,000 - £27,999.99	7
		£26,000 - £26,999.99	6
		£25,000 - £25,999.99	5
		£24,000 - £24,999.99	4
		£23,000 - £23,999.99	3
		£22,000 - £22,999.99	2
		£20,800 - £21,999.99	1

KPMG Note

These changes mean that should a situation such as that in June 2015 arise, the Home Office will be able to allocate RCoS for roles with salary packages of £34,000 per annum or more, rather than £46,000 per annum or more in accordance with the existing table, leading to an increase in the number of RCoS that were issued.

The Home Office's changes are expected to alleviate some concerns for sponsors seeking to bring employed migrants into the U.K. for roles with salary packages at the higher end of the lower salary bands which may get refused based on the existing table.

The changes should bring more clarity around the number of certificates allocated and will create flexibility. This will relieve pressure on the number of RCoS applications at busy times such as the graduate season. Furthermore, there will be an increase in the number of RCoS available following the re-introduction of unassigned RCoS into the allocation pool as opposed to being lost.

However, in the short term, due to the implementation of the new system, the Home Office may need to delay accepting applications for the November allocation meeting by a few days. The KPMG International member firm in the U.K. will be informed of this if it is the case. Nevertheless, this should not affect the number of RCoS allocations available.

Footnotes:

- 1 Home Office e-mail to a KPMG LLP (U.K.) representative, Subject: Tier 2 General Limit, dated 4 September 2015
- 2 See GMS [Flash Alert 2015-091](#) (29 July 2015).
- 3 See GMS [Flash Alert 2015-076](#) (16 June 2015).
- 4 See "Guidance: Allocations of restricted certificates of sponsorship" (Updated 11 September 2015). Click [here](#).

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For additional information or assistance, please contact your usual KPMG GMS or People Services professional or one of the following professionals with the KPMG International member firm in the United Kingdom:*

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** Please note the KPMG International member firm in the United States does not provide immigration services.*

GMS Video Now Available for Viewing: Same-Sex Marriage and State Tax Filing Following Obergefell v. Hodges

The U.S. Supreme Court's recent landmark decision *Obergefell v. Hodges* means that those remaining states that still had a ban on same-sex marriage are now required under the Fourteenth Amendment of the U.S. Constitution to issue marriage licenses to same-sex couples. Marianne Evans and Bob Rothery with the KPMG LLP (U.S.) Washington National Tax practice discuss the impact of this decision on how same-sex married couples file their state tax returns in 2015 and 2016, as well as amended tax returns for prior years. From a global mobility perspective, this has implications for international assignees who are in same-sex marriages with state tax filing obligations. Please see:

[Same-Sex Marriage and State Tax Filing Following Obergefell v. Hodges](#) – (app. 8-1/2 minutes)

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