

The Influx of Foreign Labor to Russia: Legal and Tax Aspects

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Recently, an increasing number of foreign specialists have been coming to Russia to earn a living. This is mainly because of the difficult financial situation in Europe and the relatively stable labor resources in Russia today, where unemployment has not reached the extreme levels of Spain or Greece, and there have not been mass layoffs.

It is not very easy for foreigners to be employed legally in Russia, however, mainly because of the bureaucracy and complex procedures for processing work permits. As a rule, an employer must process work permits for its foreign employees, which gives rise to additional expenses on the part of the employer when processing the consent documents for foreign employees. Moreover, this process takes up a certain amount of time, thereby delaying the hiring of a foreign employee and entering into a labor agreement with him/her.

If a foreigner is a highly qualified specialist whose yearly salary is at least 2 million rubles (approx. \$60,000), then he/she may receive a work permit within 14 working days. If the yearly salary is less than 2 million rubles, it will take at least three months to process a work permit as per the standard procedure.

Significant time is spent on preparing the necessary documents in order to process a work permit, as well as subsequently submitting and receiving the documents to and from the government authorities. Therefore, an employer must either pay for the services of an agency that processes these types of documents, or, if the number of foreign employees is constantly increasing, hire qualified lawyers to handle the processing of foreign employees with the relative work experience, which also involves significant expenses.

Specialists may receive their work permits within 14 working days. An employer is required to process both the work permit and invitation for a work visa for a specialist. Foreign top managers may not independently process their work permits. A work permit and work visa

for this category of specialists are valid for a maximum of three years (unlike the other categories of foreigners whose work permits may not be valid for more than one year).

The procedure for hiring top managers was simplified on July 1, 2010 as a result of amendments to migration legislation, which outlined the concept of a specialist. The amendments allow an employer to hire a foreign specialist in the shortest amount of time.

Germany's experience in the area of hiring highly qualified specialists served as the basis for the amendments to the migration legislation, where qualified specialists differ from other migrants in terms of the amount of earnings. The Russian authorities made the decision to substantially reform migration legislation, specifically by simplifying the procedure for entering and working and residing in Russia, in order to attract to the country foreign specialists, without whom it would not be possible to compensate for the shortage of local employees or modernize the domestic economy.

In terms of taxing the income of foreign specialists, the special taxation procedure for specialist income started on July 1, 2010. Federal Law No. 86-FZ, dated May 19, 2010, contains the relevant amendments in paragraph 3, article 224 of the Tax Code of the Russian Federation. Under this procedure, the income of specialists is taxed at 13 percent. Income earned by individuals who are not tax residents of the Russian Federation is taxed at 30 percent as a general rule.

All other foreign specialists who earn income in the Russian Federation and who have spent less than 183 days of the past 12 months in the country are not considered tax residents; therefore, their income earned from sources in the Russian Federation is subject to the 30 percent tax rate.

In summarizing the above, it should be noted that even though foreign specialists show a strong desire to come to the Russian Federation to work, various legal formalities hinder this process.

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