

# TaxFlash



## ***New Procedures for Employing Foreign Workers in Indonesia***

The Minister of Manpower has recently issued Regulation No. 10 of 2018, on 11 July 2018, concerning the Procedures for the Utilization of Foreign Workers, and Circular Letter No. 5 of 2018, on 1 August 2018, concerning the Transfer of Licensing Services for the Utilization of Foreign Workers, which serves as an implementing regulation to Presidential Regulation No. 20 of 2018, concerning the Utilization of Foreign Workers.

As you are aware, Presidential Regulation No. 20 of 2018 was issued to simplify the work and stay permit application procedures, in an effort to attract more foreign investment into Indonesia, and at the same time to clarify the requirements and conditions for a company to be able to utilize foreign workers for its business.

Under this new Minister of Manpower Regulation and Circular Letter, the Minister of Manpower has provided further details about the new application procedures, as well as the requirements and the conditions that need to be complied with in order to utilize foreign workers.

The key changes in this regulation are as follows:

### **1. New Procedures**

The work and stay permit application process is expected to be fully online and streamed by integrating the Manpower and Immigration process under current TKA online system and partly merge with a so-called Online Single Submission (OSS) system, which has been launched according to Government Regulation No. 24 of 2018, concerning Online Single Submission systems.

Under the new application procedures, the Minister of Manpower will no longer issue a Permit to Employ Expatriates or known as IMTA. It will be replaced by a so-called “Notification of Foreign Worker”, which will have to be submitted by the employer once it has secured an Expatriate Manpower Plan Approval (RPTKA).

Under the old regulation, there are some exemptions from the obligation to obtain an RPTKA. The new regulation provides an additional exemption for obtaining an RPTKA and submitting the Notification of Foreign Worker in the event that the foreign worker will assume a Director or Commissioner position in an Indonesian company, where he/she has share ownership. The regulation does not stipulate any minimum share ownership that the foreign worker must hold in order to enjoy such an exemption, so further consultation with the Ministry is required to clarify this.

The issuance of permits is also expected to be by soft copy only.

## **2. Insurance**

Under the old regulation, the employer must register its foreign workers who are working in Indonesia for more than a period of six months with the National Social Security program, under BPJS.

The new regulation still requires the same but, in addition, it also obliges the employer to register its foreign workers who are working in Indonesia for less than a period of six months with an insurance program at an Indonesian insurance company, which we understand includes the possibility of using a global insurance program as long as the insurance company has a presence in Indonesia.

## **3. Tax ID Registration**

Foreign workers who have been working for a period of more than six months are required to register with the tax office in order to obtain a Personal Tax ID Number. This requirement also indicates that there will be closer coordination and more exchanging of information between the Minister of Manpower, the Immigration Office, and the Tax Office in the future.

## **4. Multiple Positions**

Under the old regulation, there is a provision that enables a foreign worker to be employed by more than two employers, under certain conditions. The new regulation also allows for such a possibility, provided that the foreign worker assumes a Director or a Commissioner position (and not at the same time become a shareholder of the entity which employs him/her) or that the foreign worker works in the education or vocational training sectors, the digital economy sector, or certain oil and gas sectors.

## **5. Project Contract**

Employers that will employ a foreign worker for a certain project, and for a definite period of time, must also submit a copy of the Project Contract in addition to a draft of the Employment Agreement with the foreign worker. Such a Project Contract will serve as the basis for granting a work permit and determining the length of the work permit that is granted to the foreign worker.

## **6. Indonesian Language Training**

Employers must facilitate Indonesian language training for their foreign workers, which can be performed in-house or by engaging an external language course institution. Failure to comply with this requirement may lead to a sanction, in the form of a temporary suspension of any work permit applications for foreign workers.

As solid evidence for the compliance with this requirement, it is wise to consider engaging an accredited external language course institution which can issue a certificate acknowledging that the relevant foreign worker has completed the language training.

## **7. Training and Education for Local Counterparts**

With certain exemptions, employers must appoint at least one Indonesian employee to be a local counterpart to the foreign worker, and they must also provide sufficient training and education for the local counterpart to replace the foreign worker in the future.

At this stage, we understand that the Minister still acknowledges “on the job” training as a means of fulfilling this requirement. The regulation also provides an option to enter the local counterpart in an educational and/or training program that is conducted at an accredited educational/training institution.

## **8. Non-Resident Director**

Unlike the old regulation, there is no longer an exemption with regard to Non-Resident Directors and/or Commissioners not having to obtain a work permit. It is not certain yet as to whether this means that the Employer must also now apply for and obtain an RPTKA and submit a Notification of Foreign Workers for Non-Resident Directors and/or Commissioners. A company must anticipate that Non-Resident Foreign Directors and Commissioners will be required to obtain an RPTKA and to submit a Notification of Foreign Workers if they need to visit Indonesia in order to perform certain roles as Director or Commissioner of the company.

For further details regarding how this regulation will affect your business, feel free to contact our Global Mobility Services team.

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