



## Grant of Visa to Foreign nationals on Project based assignments

### Background

Ministry of Commerce and Industry (MCI) has issued a letter dated 20 August, 2009 stating that Business Visa (BV) can not be issued to foreign nationals coming for executing projects/ contracts in India.

As per the letter all foreign nationals in India holding BV doing the project work should return to their home countries on expiry of their visas or by 30 September 2009 whichever is earlier. They have to obtain Employment Visa (EV) from their country of origin in order to come to India for working on projects/ contracts.

### Key clarifications as per the letter

#### *Business Visa:*

Business visa should be issued only to foreign businessmen who want to visit India for any of the following specific purposes:

- Establish an industrial/ business venture in India; or
- Explore possibilities to set up industrial business ventures in India; or
- Wants to purchase or sell industrial products in India

#### *Employment Visas:*

- Employment visa to be issued in strict conformity with the Employment Visa Manual adhering to the listed guidelines:
  - EV to be granted to skilled or qualified professional; or
  - To a person engaged or appointed by a company / organisation on contract or employment at a senior level / technical expert / managerial position etc.
  - EV not to be issued in cases where large number of qualified Indians are already available and for routine or clerical jobs.



- Indian company engaging foreign nationals for executing projects /contracts in India shall be responsible for their conduct as well as departure from India
- Ministry of Economic affairs (MEA) will accordingly advise the Indian missions located in neighbouring countries to restrict the grant of BV to the foreign nationals coming to India for the subject work.

#### ***Procedure for obtaining Employment visa for Chinese nationals***

- Application /proforma for EV to the Indian Mission in China by the Indian / Chinese company has to be submitted incorporating the following additional information:
  - Educational qualifications and the current job, and
  - Nature of job proposed to be performed in India

Indian /Chinese company is also required to forward the copy of the visa application to Ministry of Home Affairs (MHA) (Foreigners Division)

- Indian Mission is also required to send the information so received to MHA (FD).
- Visa has to be processed by MHA within a period of 60 days.

MHA on receiving the information / application forwards the same to the following two parties:

- Intelligence Bureau (IB) : IB to give clearance within 15 days
- Ministry of Labour (MOL) : MOL to give clearance within 45 days
- MEA as a point of caution will also collate details of Chinese nationals on projects in India since 1<sup>st</sup> January 2008 on BV from the Indian Missions in China.

This shall be provided to IB to control the stay of such Chinese nationals in India beyond the validity of their BV.

#### **Our Comments**

It appears from the media reports and the contents of the letter that government intends to restrict the entry of semi skilled foreign nationals in India as there is a large population of unemployed semi skilled workers in India.

This however, may cause hardship to the companies who are employing semi skilled foreign nationals for their projects in India. Further, as per this letter, even the skilled professionals working on project/ contracts in India would need to come on employment visa. This we understand is irrespective of their duration of work in India. Generally to obtain an employment visa, adequate documentation has to be submitted which is quite detailed.



## **Disclaimer**

*The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavour to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.*

**For further information about KPMG in India and our services, please contact:**

### **Bangalore**

Maruthi Infotech Centre, 11-12/1  
Inner Ring Road  
Koramangala, Bangalore 560071  
Phone: + 91 80 3980 6000 Fax: +91 80 3980 6999

### **Chennai**

KPMG House  
No.10, Mahatma Gandhi Road,  
Nungambakkam High Road,  
Chennai 600034  
Phone: +91 44 39145000 Fax: +91 44 39145999

### **Delhi**

4B, DLF Corporate Park, DLF City, Phase III  
Gurgaon, Haryana 122 002  
Phone: +91 124 307 4000 /2549191 Fax: +91 124 254 9195

### **Hyderabad**

KPMG, 8-2-618/2  
Reliance Humsafar, 4th Floor  
Road No.11, Banjara Hills  
Hyderabad - 500 034  
Phone: +91 40 66305000/23350060 Fax: + 91 40 6630 5299

### **Kolkata**

Park Plaza, Block F, Floor VI  
71 Park Street, Kolkata 700 016  
Phone: +91 33 2217 2858 / 64/62 Fax: +91 33 2217 2868

### **Mumbai**

KPMG House, Kamala Mills Compound, 448 Senapati Bapat Marg  
Lower Parel, Mumbai 400 013

Phone: +91 22 39896000 Fax: + 91 22 39836000

**Pune**

703, 7th Floor Godrej Castlemaine, Next to Ruby Hall Clinic,  
Bund Garden Road, Pune 411001

Phone: +91 20 30585764/65 Fax: +91 20 3058 5775

**Kochi**

4/F, Palal Towers M. G. Road, Ravipuram,  
Kochi 682 016

Tel: +91 484 309 4120

Fax: +91 484 309 4121