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CO-COUNSEL REVOLVING AROUND THE SAME STAR – COORDINATION OF IMMIGRATION AND TAXATION ADVICE FOR THE GLOBALLY MOBILE ARTIST

VISAS AND TAX IMPLICATIONS

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POLISH IMMIGRATION OPTIONS

1. Introduction

In general, work in Poland of a foreign individual requires a visa and a work permit. The process is divided into two stages. At first, foreign national should be granted work permit. Thereafter, foreign national applies for a visa.

The formalities concerning employment of a foreigner in Poland have been recently simplified. As of 1 May 2014, a new Foreigners Act came into force in Poland. Apart from the above two-step process (involving two separate procedures of securing the work permit and the visa) the Foreigners Act also lays down two procedures which allow the foreigner to secure one document incorporating both the right to stay and the right to work in Poland. A drawback of these procedures is that they may only be initiated by a foreigner who is already legally residing in Poland (so the process cannot be started before their coming to Poland).

2. Who can enter and stay in the territory of Poland

2.1. Citizens of EU member states and EFTA member states (Iceland, Liechtenstein, Norway, and Switzerland)

- a. they only need passport or ID card to enter Poland
- b. they may stay in Poland for up to 3 months
- c. they may stay for longer than 3 months (without limitation) if:
 - they work in Poland, or
 - they have a health insurance and sufficient financial means to support themselves, or
 - they are married to a Polish citizen
- d. after 3 months of stay, they should register their stay into a special register of stay of EU citizens maintained by the regional governor (“wojewoda”) and obtain a certificate of stay

2.2. Citizens of certain countries exempt from visa requirement (e.g. USA, Canada, Australia)

- a. they may stay in Poland for up to 90 days within a 180-day period – if the intended stay is longer than 90 days, a visa is required
- b. at the border, they may be required to justify the purpose of their stay and to present:
 - travel medical insurance with coverage of at least EUR 30.000
 - proof of sufficient financial means to support themselves

2.3. Citizens of other countries and foreign individuals intending to stay in Poland longer than 90 days

- a. they need a visa

- b. at the border, they may be required to justify the purpose of their stay and to present:
 - travel medical insurance with coverage of at least EUR 30.000
 - proof of sufficient financial means to support themselves

3. Visas

3.1. Types of visas

There are two main types of visas – Schengen short stay visa (type C) and national long term visas (type D). Other types are Schengen airport transit visa (type A) and transit visa (type B).

- a. type C Schengen visa:
 - is required for stays of up to 90 days within a 180-day period
 - is valid for the entire Schengen area (territory of 26 EU and non-EU countries) – in some cases it may be issued with limited territorial validity
- b. type D national visa
 - is required for stays of more than 90 days – may be granted for up to 1 year
 - is valid for the territory of a given country, but allows the holder to travel within the territory of other Schengen countries for up to 90 days within any 180-day period

3.2. Subtypes of visas

Depending on the purpose of stay, there are various subtypes of visas – e.g. tourist visa ('01'), visa for the purpose of work ('07')

- a. all subtypes provide the same scope of rights
- b. different documents may be required by the consulate in case of given subtypes (e.g. a work permit in case of work visa)

4. Who can perform work in the territory of Poland

Right to work in Poland is independent from the right to stay in Poland – a visa does not give the holder a right to work in Poland. In general, a work permit is required. However, there are several categories of foreign nationals who do not need work permits, including, in particular:

- a. citizens of EU member states and EFTA member states (Iceland, Liechtenstein, Norway, and Switzerland)
- b. employees seconded to Poland in intra-corporate transfers for no more than 30 days within a calendar year
- c. individuals exempted from the obligation to obtain work permit, e.g.
 - individuals performing artistic services for up to 30 days in a calendar year
 - individuals delivering occasional lectures, presentations of a particular scientific or artistic value for up to 30 days per calendar year
 - certain categories of foreign languages teachers
 - certain categories of accredited foreign media correspondents

- clergymen, members of religious orders and congregations, recognized by relevant provisions of laws who perform work in accordance with their function in church or other religious entity
- d. Certain other categories of foreigners (e.g. permanent residents).

5. Work permit

There are 5 types of work permits:

- a. work permit type A – applicable in case of foreigners employed by entities based in Poland; may only be issued upon negative result of a labour market test, i.e. if the position cannot be filled by a Polish citizen
- b. work permit type B – applicable in case of foreigners who hold position in the Management Board (Board of Directors) of legal person registered into the register of entrepreneurs or being a capital company in an organization in case they will be staying in Poland for the period exceeding 6 months within 12 consecutive months
- c. work permit type C – applicable in case of foreigners employed by foreign entities, and seconded to Poland within an intra-corporate transfer
- d. work permit type D – applicable in case of foreigners performing work at the foreign employer who does not have a branch, plant or other organized form of business activity in Poland in case they are seconded to Poland in order to perform a temporary and occasional service (export service)
- e. work permit type E – applicable in case of foreigners who perform work at the foreign employer for other purposes than those indicated in Sec. a.-d. above.

Work permits are granted for up to 3 years (in given provinces additional limitations may apply) and may be extended.

6. Other titles of right to stay and work

6.1. Temporary residence permit with right to work

- a. involves right of stay, and the right to work
- b. may be applied for by foreigners already legally residing in Poland
- c. may be granted for up to 3 years

6.2. Temporary residence permit for highly qualified individuals (Blue Card)

- a. involves right of stay, and the right to work
- b. may be applied for by foreigners already legally residing in Poland
- c. may be granted for up to 3 years
- d. subject to additional requirements
 - individual must have high qualifications (i.e. university degree or equivalent experience)
 - remuneration must exceed minimum threshold
- e. after 2 years, the holder may change the employer without applying for new permit