GETTING A CLEARER PICTURE – MORE DETAILS RELEASED ON THE 457 VISA CHANGES

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Labour, Employment and Workplace Safety Alert

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On 18 April 2017 the Australian Government announced its planned abolishment and replacement of the 457 visa framework with a new, two-stream Temporary Skill Shortage **(TSS)** visa as well as other changes to the migration and citizenship program. Since the announcement, employers, visa holders, visa applicants and migration agents alike have been analysing details of the changes as they have been released to consider strategies for their business, employees and clients.

Following our initial alert on the changes published on 19 April 2017, further information has been released by the Department of Immigration and Border Protection **(DIBP)** in order to provide further clarification to people and businesses affected by the changes.

Some of the key details confirmed by DIBP's recent correspondence and their implications on affected employers/employees are set out below.

CURRENT 457 VISA HOLDERS WHO WISH TO CHANGE EMPLOYERS

Current 457 visa holders who wish to change employers via a new approved nomination will be affected by the change to a degree. Namely that the new nomination will need to be for an occupation still eligible for the 457 visa program and satisfy any requirements placed by relevant caveats if applicable.

However, the remaining duration of their current 457 visa will not be affected by a new nomination, even if the new nomination is for an occupation that is now on the Short-Term Skilled Occupation List **(STSOL)** that would otherwise only yield a 2-year visa.

CURRENT 457 VISA HOLDERS WHO WISHES TO APPLY FOR EMPLOYER-NOMINATED PERMANENT RESIDENCY

Current 457 visa holders who will become eligible for permanent residency under the Temporary Resident Transition **(TRT)** stream of the Employer Nominated Scheme visa (Subclass 186) **(186 visa)** before March 2018 can continue to apply for permanent residency, even if their occupation was removed from the relevant occupation lists.

Applicants who wish to apply for permanent residency under the Direct Entry stream of the 186 visa can continue

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to do so until March 2018 if their occupation is on either the Medium and Long-term Strategic Skills List **(MLTSSL)** or the STSOL. After March 2018, only applicants whose occupation is on the MLTSSL can apply for a 186 visa under the Direct Entry stream.

DIBP has advised that further information on any transitional or 'grandfathering' arrangements for 186 visa applicants who held 457 visas before March 2018 will be released closer to the implementation date of the changes.

NEW TRAINING BENCHMARKS FOR EMPLOYERS

In the 2017/18 Federal Budget, the government announced a new Skilling Australians Fund Levy that will replace the current training benchmarks for employers sponsoring or nominating employees under the 457 and Employer Nominated Scheme visa (Subclass 186 and Subclass 187) programs.

From March 2018, employers will be required to pay the following levy to access the 457 and 186/187 visa programs:

- For businesses with annual turnover of less than AUD10 million:
  - an upfront payment of AUD1,200 per visa per year for each employee on a TSS visa; and
  - a one-off payment of AUD3,000 for each employee being nominated for permanent residency under the 186 or 187 visa program.
- For businesses with annual turnover of AUD10 million or more:
  - an upfront payment of AUD1,800 per visa per year for each employee on a TSS visa; and
  - a one-off payment of AUD5,000 for each employee being nominated for permanent residency under the 186 or 187 visa program.

We continue to closely monitor the implementation of the proposed amendments and we are ready to assist employers to understand the impact of these changes on their business in line with the new legislative requirements, and to ensure that they remain compliant with obligations under the legislation.

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