

6 important things to know about 457s



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The growing skills gap is causing more employers to search for talent overseas but they'll need to be prepared for a minefield of legalities and liability.

Within 15 years, we'll be facing a shortfall of 2.3 million workers, according to a recent Boston Consulting Group report. The ageing and growing population, coupled with aggressive infrastructure growth, is leaving serious skills deficits in science, engineering, healthcare and technology.

Each year, 45,000 skilled migrants enter Australia, and the Department of Immigration and Border Protection expects this to rise significantly in coming years.

Most skilled workers enter the country on a 457 visa, permitting them to work in their nominated occupation for up to four years.

The 457 visa scheme has come under scrutiny in recent years and underwent major reforms in July 2013. And, there are indications that the Abbott government is preparing to make further amendments.

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Before looking overseas for skilled employees, businesses need to be familiar with these requirements and pitfalls:

1. Eligibility

Before any recruitment activity, employers must confirm that their business is eligible to sponsor an offshore worker, says Chris Oldham, of Argo Migration. If the prospective employee already has a visa (for example, a working holiday visa), the employer must confirm the visa conditions and the time period the employee is permitted to work for them.

To be eligible as a sponsor under the 457 visa program, a business must show that:

- ▶ It is a lawfully operating business, with evidence of trading.
- ▶ It is committed to investment in training; and it must meet training benchmark requirements.
- ▶ It agrees to the number of 457 workers to be nominated.
- ▶ It has no relevant adverse information against its business.

2. Commitment to local labour

Businesses must demonstrate that they have attempted to fill the position with local talent. Under Labour Market Testing (LMT) rules introduced last year, specific evidence is required to be submitted with the visa application.

LMT rules apply to sponsored occupations. However, exemptions apply to executive or senior manager occupations, or where it would conflict with Australia's international trade obligations in some circumstances.

3. Obligations

Once approved to sponsor under the 457 visa program, businesses must be mindful of certain obligations, including:

- ▶ Any changes to an employee's visa status must be communicated within 10 days of the change occurring. For example, a change of job description or the employee leaving the business.
- ▶ The business must keep records of any training that has been conducted.
- ▶ Ensure the salary is fair market rate and is not inflated to meet the Temporary Skilled Migration Income Threshold of \$53,900 per annum to qualify for the 457 visa program.
- ▶ Ensure that job terms and conditions are equal to those provided to an Australian citizen or permanent resident.
- ▶ The business must be able to prove the position is genuine and not just created to access the 457 visa program.

4. Consequences

Existing visa approvals may be threatened if businesses don't meet their obligations. Worse, a business could be barred from applying for approval to sponsor, or from sponsoring employees for a period.

Penalties ranging from \$2040 to \$51,000 for each failure can apply.

5. Tax and superannuation

As part of the 2013 reforms, entitlement to tax concessions for temporary workers has been drastically reduced, says Tracy Angwin, founder of the Australian Payroll Association. The Living Away from Home Allowance has been all but eliminated, unless employers can prove the employee is living away from an Australian-based home maintained for personal use. Temporary residents are also not entitled to a tax-free threshold and therefore pay an overall higher amount of income tax.

As with residents and citizens, employers are required to make superannuation contributions for employees, with a few exceptions, such as senior executives.

6. Commercial and productivity risk

The cost of recruiting talent from overseas can quickly reach dizzying heights. Executive moves can cost hundreds of thousands of dollars in relocation expense alone. International moves involve personal upheaval and reliance on the family to transition to life in Australia. Without the right support and induction processes in place, companies risk relocation failure and a reduction in productivity and engagement.

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