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Immigration legislation is updated at regular intervals. This Newsletter is to inform you of changes that are relevant to expatriate employment policy, specifically to Business Sponsorship applications and temporary business visa holders in regards to visa conditions, further temporary stay and applications for employer sponsored migration or permanent residency.

SUMMARY OF NEWS:

- **Changes to the Subclass 457 Visa program.**

Detailed information:

- Increase in Temporary Skilled Migration Income Threshold (TSMIT) from **\$47,480 plus superannuation** per annum to **\$49,330 plus superannuation** per annum as of 1 July 2011. This applies to all existing as well as new 457 visa holders. If any employees are taking advantage of the Living Away from Home Allowance (LAFHA) they need to ensure that their taxable income does not now drop below \$49,330p.a.

This means that for all new nominations made under the 457 program from 1 July 2011 (and those cases that have been lodged but not yet decided as at 1 July 2011) the salary offered to an overseas employee cannot be less than \$49,330 per annum plus super. When a nomination is approved on or after 1 July 2011, a standard business sponsor must pay the overseas employee the "guaranteed annual earnings" approved at nomination or the "market salary rate" as it varies from time to time, whichever is GREATER.

So, this means that if an Australian citizen or permanent resident employee doing equivalent work at the same location receives an increase then this increase must also apply to the 457 sponsored employee even if it means they will then be paid more than what was approved at the nomination stage.

The above does not mean that you have to automatically increase the salary of all current 457 sponsored employees to at least \$49,330 plus super if their nomination was approved at the previous lower TSMIT of \$47,480 plus super. But if "market salary rates" have increased then as a sponsor you do need to increase the salary of 457 sponsored employees accordingly.

On the more negative side if the “market salary rate” for the position is now below \$49,330 plus superannuation you will not be able to nominate the position under the 457 program. This means that if Australian employees doing equivalent work at the same location are currently paid \$48,900 for example then this position will not meet the criteria for a successful nomination and therefore a 457 visa application cannot be made.

In addition to this, the terms and conditions of the employment must be no less favourable than those approved at nomination AND no less favourable than the terms and conditions provided to Australian citizens or permanent residents performing equivalent work at the same location.

This is an important point and we want to make sure that all our clients understand their obligations clearly. So if you have any questions or want to discuss this further please contact us.

