



GES NewsFlash

Australia — Further changes to employer-sponsored migration

July 5, 2012

Changes to the Business (Long Stay) (Subclass 457) Stream

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TSMIT increased to \$51,400

From 1 July 2012, the Temporary Skilled Migration Threshold (TSMIT) will be set at \$51,400 per annum, increased from the current \$49,330. Businesses must continue to pay market salary rates unless the visa holder's guaranteed annual earnings are equivalent to or greater than \$180,000.

Increase in base salary to claim English language exemption

English language testing continues to apply for applicants in certain trade-related occupations unless specific exemptions exist. The annual base salary claimed under the English language exemption has increased from \$88,410 to \$92,000.

Changes to the Employer Nomination Scheme and Regional Sponsored Migration Scheme

The DIAC has now provided specific information regarding the exemptions that can be claimed for age, skills, and English language requirements under the "Permanent Residence Stream."

Skills exemptions

Skills exemptions will now also be available under the "Direct Entry Stream" for Employer Nomination Scheme (ENS) and/or Regional Sponsored Migration Scheme (RSMS) where:

- The applicant's nominated earnings are at least equivalent to the current Australian Tax Office's (ATO) top individual income tax rate of \$180,001 (a significant reduction from the current \$250,000), or
- The applicant holds a "Special Category (Temporary) Subclass 444 Visa," or "New Zealand Citizen Family Relationship (Temporary) Subclass 461 Visa," and has been working with their nominating employer in their nominated occupation for at least two years (excluding any periods of unpaid leave) in the last three years before making their visa application.

Age exemptions

Age exemptions will now also be available under the "Temporary Residence Transition Stream" for ENS/RSMS where:

- The applicant has worked for their nominating employer as the holder of a Temporary Business (Long Stay) Subclass 457 Visa ("457 Visa") for at least the four years immediately before applying and
- Their annual earnings for each year in the four-year period was at least equivalent to the "Fair Work High Income Threshold" (specified as \$123,300 from 1 July 2012)

English language exemptions

English language exemptions will now also be available under the Temporary Residence Transition and the Direct Entry streams for ENS/RSMS where:

- The applicant earns an annual salary which is at least equivalent to the ATO's current top individual tax rate of \$180,001, or
- The applicant has completed at least five years of full-time study at a secondary and/or higher educational institution where the language of instruction was English. This exemption is only available under the Temporary Residence Transition Stream.

Additional changes to the RSMS

For regional employees sponsored under the RSMS, a skills assessment will now be required under the Direct Entry Stream if the visa applicant is nominated under certain trade occupations, and they did not obtain their qualification in Australia.

Training benchmarks

For nomination applications lodged under the ENS, the nominating business must meet training benchmarks if it has been trading for at least 12 months, or an auditable training plan must be provided if the business has been trading for less than 12 months. The training benchmark requires recent expenditure by the business to the equivalent of at least 1% of payroll on the training of Australian employees or at least 2% of payroll on payments allocated to an industry training fund.

Deloitte's view

Deloitte welcomes the specification of the ATO's top individual tax income rate for skills and English language exemptions as a positive change that encourages highly skilled specialists and executives to make a long-term contribution to the Australian economy by applying for permanent residence. In particular, the reduction in the salary level claimed for the skills exemption (from \$250,000 to \$180,001) will facilitate a pathway for highly skilled applicants to apply for permanent residence under the Direct Entry Stream.

The further clarification surrounding the age, skill, and English exemptions is also a welcome change that will provide greater clarity associated with claiming these exemptions. However, the specific nature of these may also prove to be more restrictive, as applicants will no longer be afforded the flexibility available prior to 1 July 2012.

The increase in the TSMIT under the 457 Visa stream is consistent with the level of increase announced in previous years. It is imperative that businesses now undertake a review of salaries to ensure that all current and future 457 Visa holders not only meet the new TSMIT of \$51,400, but also continue to meet market salary rates.

More generally, it appears that the changes outlined serve to reduce complexity and strengthen the alignment between the employer-sponsored Temporary and Permanent Residence Streams. Deloitte welcomes this consistency, as it allows businesses to formulate more-focused corporate migration and workforce planning strategies that will meet the requirements of both streams.

Prior to the introduction of the legislative changes on 1 July 2012, Deloitte encourages businesses to consider and review:

- Whether highly paid applicants earning \$180,001 or more will be eligible for permanent residence under the Direct Entry Stream
- Whether employees considering permanent residence will be able to claim exemptions regarding age, skills, and English language requirements
- The salaries of current 457 Visa holders and future 457 Visa applicants in line with the new TSMIT of \$51,400
- The commitment to training and market salary rates for all temporary and permanent residence applications.

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