

taxBlitz

Tax & Customs Update

Rule for Foreign Worker Is Amended, Get This Regulation Right!

The Government obliges every employer to prioritize the recruitment of Indonesian workers in all kinds of positions available. The use of foreign workers is allowed for certain period and only for specific position not yet possible to be occupied by Indonesian workers.

The affirmation is stipulated in Presidential Regulation (Perpres) Number 20 Year 2018 on the Recruitment of Foreign Workers, which is effective 3 (three) months after the date of its promulgation on 29 March 2018. This policy automatically revokes Perpres Number 72 Year 2014 on the Use of Foreign Workers as well as the Implementation of Education and Training of Indonesian Workers as Associate for Foreign Workers.

Basically, expatriates are allowed to work in Indonesia for certain position and period by considering the domestic labor market condition. However, the domestic labor market condition as referred to in Perpres Number 20 Year 2018 is not detailed further.

List of Foreign Worker Employers

- (1) Government institutions, representatives of foreign countries, international agencies, and international organizations;
- (2) Foreign trade representative offices, foreign representative offices, and foreign news agencies performing activities in Indonesia;
- (3) Foreign private companies running business in Indonesia;
- (4) Legal entities established under Indonesian Law in the form of limited liability or foundation or foreign business entity registered in authorized institutions;
- (5) Social, religious, educational, and cultural institutions;
- (6) Entertainment business services; and
- (7) Business entities, so far as not prohibited by Laws.

Double Work

Foreign workers are allowed to work for more than one employer, with the work period in the second place or so on is at maximum until the end of their work period in the first place in particular sector and position. However, this new policy remains affirming the prohibition for the foreign workers to hold positions dealing with human resources and/or certain positions determined by Minister of Manpower.

To employ foreign workers, every employer should arrange Expatriate Manpower

Utilization Plan (RPTKA) submitted to be approved by Minister of Manpower or any appointed officials. The request for RPTKA approval is submitted by the foreign worker employer by enclosing several required documents.

Enclosures to RPTKA Application Letter

- Business License from authorized institution;
- Deed and decision of approval upon establishment and/or amendment from authorized institution;
- The scheme of the company's organizational structure;
- Statement Letter for the appointment of Indonesian workers as associates for foreign workers and implementation of education and training; and
- Statement Letter to perform education and training for Indonesian workers pursuant to qualifications of positions occupied by foreign workers.

Other than the foregoing information, RPTKA may contain the plan of foreign worker utilization for temporary or one-time work within a period of 6 (six) months at maximum, such as works for audit, production quality control, inspection in branch company in Indonesia, and works related to machine installation or maintenance.

Exception to RPTKA

RPTKA is not compulsory for employer hiring the foreign workers in positions such as shareholder acting as a member of Board of Directors or Commissioners; diplomat and consul in representative offices of foreign countries; or foreign workers in work type required by the Government.

For emergency and urgent work, RPTKA shall be submitted no later than 2 (two) business days after the foreign workers work in Indonesia.

Every employer is also mandatory to pay compensation for foreign worker employment for each foreign worker employed after receiving notification of foreign worker candidate data approval. The amount of compensation for the use of foreign workers to be paid is of USD100 per person per month and considered as a Non-tax State Revenue (PNBP) that shall be paid by the employer through banks appointed by minister.

Work Permit Is Revoked

In the previous regulation, each foreign worker employer was obliged to hold Work Permit (IMTA) issued by minister or appointed officials, but Perpres Number 20 Year 2018 issuance revokes the IMTA regulation.

Meanwhile, for foreign worker candidates, there are several requirements to be met to work in Indonesia. The requirements, among others, cover the obligation to hold Limited Stay Visa (VITAS) for working and Limited Stay Permit (ITAS) that are requested to minister handling law and human rights affairs or appointed immigration officials.

The application of VITAS and ITAS may be applied collectively or separately by the foreign worker or the employer by attaching the notification and compensation payment slip. The VITAS

is issued by immigration official within 2 (two) days at maximum after the application is completely received.

Meanwhile, related to ITAS, the period of stay allowed for foreign workers is 2 (two) years at maximum and could be extended. The ITAS is rendered in Immigration Checkpoint along with the Re-Entry Permit for several trips with the same validity period as that of ITAS.

Requirements & Obligations of Foreign Workers	
(1)	Having VITAS;
(2)	Having ITAS;
(3)	Having Social Security Administration Body for Employment (<i>Jaminan Sosial Ketenagakerjaan</i>) (for foreign workers working more than 6 months) or insurance policy in official Indonesian insurance company;
(4)	Appointing Indonesian workers as associates.

The application for VITAS for working and ITAS for foreign workers are subject to PNBP (compensation) that shall be paid every year pursuant to the working period of the foreign workers.

Thus, the procedures for foreign worker employment application begins with the arrangement and submission of RPTKA by employer, which is then responded by minister or appointed officials by issuing notification. After that, the employer shall pay the compensation as well as handle the VITAS and ITAS.

Every employer is also obliged to guarantee that the foreign workers are registered in Social Security Administration Body for Employment for foreign workers working more than 6 (six) months and/or insurance policy in official Indonesian insurance company.

Every foreign worker employer is also compulsory to appoint Indonesian worker as an associate of the foreign worker, implement education and training for Indonesian worker pursuant to the qualifications of positions occupied by the foreign worker, and facilitate the education and Indonesian Language training for the foreign worker. Those obligations do not apply for foreign workers holding positions as directors and/or commissioners.

Requirements and Obligations of Foreign Worker Employer	
(1)	Arranging RPTKA;
(2)	Paying compensation of foreign worker recruitment every year (PNBP);
(3)	Providing Social Security Administration Body for Employment (for foreign workers working more than 6 months) or insurance policy in official Indonesian insurance company;
(4)	Providing Indonesian workers as associates;
(5)	Implementing education and training for Indonesian workers pursuant to qualifications of positions occupied by the foreign workers;
(6)	Facilitating the Indonesian language education and training for the foreign workers;
(7)	Reporting data of the foreign worker candidates and implementation of foreign worker employment;
(8)	Reporting any foreign worker employment contract that will be ended or terminated before the period of employment contract.

Sanction

Any employer breaking the regulation of foreign worker recruitment, implementation of education and training of associate, and reporting is subject to sanction in accordance with the laws and regulations in manpower field.

Any employer giving false information in the statement of guarantee or not fulfilling the guarantee and any foreign worker violating the regulation of migration stay permit will be imposed by sanction pursuant to laws and regulations in immigration field.

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