

HR & Tax Alert



Quality In Everything We Do

Belgium - Pending legislation to make LIMOSA exemption for business trips more flexible

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Executive summary

The Belgian government introduced a new immigration tracking system on 1 April 2007. Named 'LIMOSA' (after a migrant bird) the government aimed to simplify the administrative formalities associated with the employment of foreign citizens in Belgium. It also aimed to establish a tracking system which monitored foreign business presences in Belgium.

Following intensive lobbying efforts, the Belgian social security authorities have admitted that the LIMOSA tracking system – though an important tool to combat illegal employment in their view - can be significantly improved to make it more “user friendly”. An amendment to the existing legislation has therefore been drafted and its principle was approved by the Council of Ministers on 19 July 2007.

The pending legislation which is anticipated to enter into force shortly would have an important impact on the LIMOSA requirements for individuals making business trips into Belgium.

Extension of LIMOSA waiver

With effect from 1 April 2007, business trips and partial or temporary assignments to Belgium must be disclosed to the Belgian authorities prior to the start of the activities in Belgium.

The current legislation has exempted some categories of business travellers from the LIMOSA notification requirement in view of either the nature or length of

the assignment to Belgium. Currently an exemption is available for business trips to attend meetings or to attend a scientific congress provided that the stay in Belgium does not exceed 5 working days per calendar month.

For business trips caused by the need to attend a scientific congress the draft legislation proposes a full exemption from the LIMOSA notification irrespective of the duration of the congress.

For business trips caused by the need to attend a meeting, the draft bill allows the Belgian business presence to be weighted out against an annual instead of a monthly threshold. For business meetings in Belgium, the LIMOSA notification exemption has been extended to an annual threshold of 60 working days per calendar year (i.e. 5 days x 12) with a maximum of 20 calendar days per meeting. This should on the one hand significantly reduce the number of visitors subject to the notification requirements of LIMOSA as only regular visitors paying frequent visits to Belgium will be affected. On the other hand, it will not simplify the tracking process which the employers and end users need to set up to comply with the notification requirement.

These amendments confirm the rationale of the LIMOSA legislation which is to target the so called “accidental expatriates” who visit Belgium every month.

Once entered into force, the new legislation will have a retroactive effect from 1 April 2007.

Next steps

Additional changes to the LIMOSA legislation are expected. For instance, we anticipate a full LIMOSA exemption to apply for urgent repair or maintenance work carried out in Belgium by foreign specialized employees. We also expect that a LIMOSA notification would no longer be needed when an employee is subject to Belgian social security and a DIMONA declaration has been made to the Belgian social security authorities. A DIMONA declaration is the standard declaration that must be made by an employer to the Belgian social security authorities for each recruitment they make.

Furthermore the European Commission has asked Belgium to justify that the LIMOSA legislation is in line with the European free movement principles, especially with regards to self-employed individuals.

Finally, we also anticipate amendments to be made to the work permit legislation to align it with the new LIMOSA changes in order to have a framework of legislation that is consistent for business trips to Belgium. This would probably mean a work permit exemption for anyone spending less than 60 working days per annum in Belgium.

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