



Highly Qualified Specialist Classification for Foreign Workers Takes Effect February 15, 2011

The long discussed changes to reduce the regulatory burden of hiring foreign nationals are scheduled to take effect February 15, 2011 as a consequence of amendments to several legislative acts related to the employment of foreign nationals. The most significant change is the creation of the "highly-qualified specialists" (HQS) classification.

HQS Classification

In accordance with the amendments to Article 13.2 of Federal Law No. 115-FZ (Federal Law No. 115-FZ of July 25, 2002 "On the Legal Status of Foreign Nationals in the Russian Federation") a highly-qualified specialist is defined as a foreign citizen or stateless person with relevant work experience, skills or achievements in a specific area of activities, if the terms of his/her labor contract in the Russian Federation involve receiving a gross annual income in an amount of no less than **two million rubles** (approximately US\$65,000). There are two exceptions:

- The qualifying annual salary of foreign research fellows and teachers is **one million rubles** (approximately US\$32,000); and
- Foreign nationals involved in the development of innovation city Skolkovo (as opposed to the business school of the same name) are not

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Contacts:

[Sergey A. Treshchev](#)
+7.495.363.1672

[Angela Y. Korzhevskaya](#)
+7.495.363.1668

[Anastasia S. Melnikova](#)
+7.495.258.5250

[Valeria A. Mironova](#)
+7.495.258.5250

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subject to any salary requirement (which begs the question of how such persons will document and demonstrate their HQS qualification).

The qualification level of a foreign employee is determined by the employer – no particular qualifications are required to be demonstrated to the migration authorities. Thus, the sole determining factor is the foreign national's annual salary.

Benefits of HQS Classification

A foreign national employed as an HQS enjoys the following benefits, not enjoyed by other foreign employees:

- The HQS is not subject to the annual quota system;
- The HQS's employer does not have to apply for a permit to employ an HQS;
- The HQS and members of the HQS' family may obtain a visa for a period of up to three years as opposed to one year; and
- The HQS is subject to individual income tax at a rate of 13 percent applicable from the very first day of his employment regardless of the number of days he/she spends in Russia per tax year, as opposed to the 30-percent rate currently paid by nonresidents (those who spend less than 183 days per tax year in Russia).

Individuals covered by the phrase "members of HQS family" also has been clarified. It now broadly covers spouse, children (including adopted children), children's spouses, parents (including adoptive parents), parents' spouses, grandfathers, grandmothers and grandchildren.

Employer Requirements

HQS employers should note that they must:

- Obtain an Individual Work Permit valid for the term of the HQS' employment agreement or service contract not exceeding three years (a new rule introduced by the Federal Migration Service contemplates that work permit documents be submitted by mail, which means the procedure for issuance of an Individual Work Permit will likely take at least 20-35 working days);

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- Provide the HQS and family members (if they are foreign nationals) medical insurance valid in the Russian Federation (provision of the health care service should be an essential condition of the employment agreement or service contract);
- Notify the Federal Migration Service on a quarterly basis of the regular payment of qualifying levels of compensation to the HQS;
- Notify the Federal Migration Service upon termination of employment of an HQS; and
- Treat the HQS as being on unpaid leave if the HQS is absent from the country for more than one calendar month within a year.

Although these amendments generally ease the employment procedure for HQS, certain limitations remain including:

- Only Russian legal entities, Russian scientific institutions or accredited branches of foreign legal entities have the right to employ a HQS; and
- The foreign national must be on the payroll of a Russian entity or accredited branch of a foreign legal entity to be qualified as HQS – expatriates working in Russia but paid by a foreign legal entity do not qualify.

For more information on the HQS classification, please contact your primary Squire Sanders lawyer or one of the individuals listed in this Alert.

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