



Tax Flash Law no. 157/2011

Law no. 157/2011, issued by the Romanian Parliament, published in the Official Gazette no. 533- 28/07/2011

No. 8/ 2011

August 4th 2011

Law no. 157/2011 amending and completing immigration legislation with respect to foreigners' status in Romania was issued for creating the necessary legal framework for the direct application of Regulation (EC) no. 810/2009 of the European Parliament and the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code), published in the Official Journal of the European Union No. L series, no. 243 of 15 September 2009 and creating the legal framework required to implement the Decision 582/2008/EC of the European Parliament and the Council of 17 June 2008 introducing a simplified regime for the control of persons at external borders based on unilateral recognition by Bulgaria, Cyprus and Romania of certain documents as equivalent to their national visas for transit through their territories, published in the Official Journal of the European Union No. L series, no. 161 of 20 June 2008 and Decision 586/2008/EC of the European Parliament and the Council of 17 June 2008 amending Decision No. 896/2006/CE establishing a simplified regime for the control of persons at external borders based on unilateral recognition by Member States of certain residence permits issued by Switzerland and Liechtenstein for the purpose of transit through their territory, published in the Official Journal of European Union L series no. 162 of June 21, 2008.

Law no. 157/2011 modifies the Government Emergency Ordinance no. 194/2002 and lay down rules regarding the entry, stay and leave of the Romanian territory. The main amendments brought to the GEO no. 194/2002 are related to:

- the concept of temporary and permanent residence in Romania,
- entitlement to work in Romania for highly qualified workers
- conditions to be met in order to obtain a Residence Permit in Romania, especially for commercial activities
- splitting of the "other purposes" category and introduction of the assignment as new category (symbol DT)
- family reunion
- setting standards regarding the measures and sanctions against employers of third-country nationals staying illegally.

Long term residency

The notion of "permanent resident" is replaced by "**long term resident**". According to the Law no. 157/2011, the long term resident is the foreigner who possesses a Long Term Residence Permit. Art. 2, lit i¹ from the modified GEO no. 194/2002 defines the right to stay for long stay as being the right of staying on the Romanian territory for

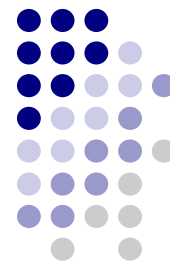
Our areas of practice:

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an undetermined period. However, according to the GEO no. 194/2002, art. 110, align. 1, the **long term R/P** will be issued for a period of **10 years** for the foreigners, family members of Romanian citizens and for a period of **5 years** for other categories of foreigners. After this period of time, the R/p will be renewed successively for the same period.

EU Blue Card

It's introduced in the Romanian immigration legislation the notion of "**EU Blue Card**". The Blue Card is an approved EU-wide residence permit allowing **high-skilled non-EU citizens** to work and live in any country within the European Union. This card is valid for up to two-years, but it can be renewed thereafter. Those who are granted a blue card will be given a series of rights, such as favorable family unification rules and for obtaining and maintain a long term R/P. This encourages geographic mobility within the EU, between different member states, for those who have been granted a blue card. For example, holders of a Blue Card are able to apply for family reunion even if the validity of their card is less than one year. But, comparative with a R/P for work purposes there are some additional conditions to be met related not only by the profession the employee has, but also the salary that should be written on the individual labor contract. Therefore, for the high skilled workers, this will be at the level of at least 4 times the average gross salary per economy.

Assignment

So far/ Up to now, the assignment was included into the "other purposes" category. Now, the work authorization and both Visa and R/P are issued on a separate basis. The process will be as follows: W/A -> Visa -> R/P, instead of Visa -> W/A-> R/P. The non EU citizens who are employed in an EU member state, EEA or Switzerland and then assigned in Romania won't need a Work Authorization in order to be able to work or to obtain the Visa and the R/P.

R/P for commercial activities

There were introduced 2 main changes: one regarding the increase of the minimum investment thresholds and the other regarding the documentation that should be provided to the Romanian Immigration Office for obtaining the Visa and the R/P.

For obtaining a long term visa for deployment of commercial activities the minimum investment thresholds are: 100.000 Euro for a limited liability company (instead of 70.000 Euro) and 150.000 Euro for a joint stock company (instead of 100.000 Euro). Another condition is to prove that it will create, within 12 months of obtaining the residence permit, at least 10 new jobs for a limited company and at least 15 new jobs for a joint stock company.

The applications pending in the Romanian Immigration Office structures will be analyzed and resolved in accordance with new legal provisions and applicants who have applied for admission / extension of the right of residence / work authorizations are required to submit by the expiration of the legal settlement of claims, evidence that would prove they meet the new conditions set by Law 157 of 11/07/2011.

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