



GES NewsFlash

India - The Ministry of Home Affairs Provides Greater Clarity on Issuance of Work Related Visas

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Highlights of FAQ

The Ministry of Home Affairs issued a notification in August providing a broad outline on the circumstances under which a business visa can be issued. Consequent to this, individuals who have a business visa for any purpose other than those outlined were required to leave before 31st October, 2009. There has been some level of uncertainty on the circumstances under which employment/business visa is to be obtained. This Frequently Asked Questions (FAQ) outline attempts to clarify such issues.

The FAQ clarifies that basically there are two types of work related visas: (i) Business Visa (B Visa) (ii) Employment Visa (E Visa), besides detailing the conditions for grant of B/E Visa, eligibility, documentation requirements etc

A snap shot of eligibility criteria for B Visa / E Visa is tabulated below

B Visa	E Visa
<ul style="list-style-type: none"> • Visits for establishing an industrial/ business venture or for exploring possibilities for setting up an industrial/business venture 	<ul style="list-style-type: none"> • Executing a project or contract, irrespective of the duration of the visit
<ul style="list-style-type: none"> • Visit for purchasing / selling industrial or commercial products or consumer durables 	<ul style="list-style-type: none"> • Coming to India on short visits as part of warranty or annual maintenance contracts, installation and commissioning of equipments
<ul style="list-style-type: none"> • Technical meetings / discussions, attending Board Meetings, general meetings for providing business services support 	<ul style="list-style-type: none"> • Experts coming to India for imparting training to the Indian company's personnel
<ul style="list-style-type: none"> • Foreign experts/ specialists in connection with an ongoing 	<ul style="list-style-type: none"> • Deputed for providing technical support / services, transfer of

project for monitoring progress, conducting meetings or providing high level technical guidance	know-how, etc. for which the Indian company pays fees/royalty to the foreign company
<ul style="list-style-type: none"> • Visits of partners in Business and / or functioning as Directors in the company 	<ul style="list-style-type: none"> • Consultants for which the Indian company pays a fixed remuneration
<ul style="list-style-type: none"> • Consultations regarding exhibitions, participation in exhibitions, trade fairs, business fairs, etc., foreign buyers who come to transact business, quality control, negotiations, etc 	<ul style="list-style-type: none"> • Foreign nationals taking up employment as coaches, sportsmen who have contract with the Indian clubs / organizations
<ul style="list-style-type: none"> • Foreign trainees coming for in-house training, foreign students sponsored by AIESEC, foreign nationals coming for recruitment of man power 	<ul style="list-style-type: none"> • Self-employed foreign nationals who provide highly skilled services
<ul style="list-style-type: none"> • Visit for pre-sales and post-sales activity not amounting to actual execution of any contract or project 	<ul style="list-style-type: none"> • Foreign artists engaged to give performances for the duration of contract given by hotels, clubs / organizations

Documents to be submitted along with the visa application:

B Visa	E Visa
<ul style="list-style-type: none"> • Valid travel document and a re-entry permit, if required under the law of the country concerned 	<ul style="list-style-type: none"> • Valid travel document and a re-entry permit, if required under the law of the country concerned
<ul style="list-style-type: none"> • Proof of financial standing and expertise in the field of intended business 	<ul style="list-style-type: none"> • Proof of his/her employment or contract or engagement by the company/organization in India
	<ul style="list-style-type: none"> • Documentary proof of his educational qualifications and professional expertise

Other clarifications

- Foreign nationals who are in India on B Visa and engaged in executing project/ contract should leave the country by 31st October 2009, their B visa cannot be converted to E visa
- Foreign nationals coming for executing project/ contracts need to take E visa henceforth
- Family members of foreign nationals to be provided an 'X' Visa (Dependent visa)
- Indian company / organization which has awarded a contract to a foreign company (that does not have any base in India) may sponsor an employee of the foreign entity for E Visa
- Such sponsorship of E Visa by the Indian company does not make the Indian entity as the legal employer of the foreign national
- Senior management personnel and /or specialists employed by foreign firms and relocated to India to work on specific project to come on E Visa

- B Visa / E Visa to be issued from the country of origin or from the country of domicile of a foreign national provided the period of permanent residence of that foreign national in that particular country is more than 2 years

Source: FAQ posted on the website www.mha.nic.in

Deloitte's View

- Foreign nationals should review the type of visa that they are holding to make sure that they carry the appropriate visa for doing the work in India
- Indian company issuing sponsorship document to exercise adequate caution to make sure that the purpose of the foreign national's visit is correctly stated

People to Contact

If you have any questions concerning the issues in this GES NewsFlash, please contact one of the tax professionals as follows:

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