

## **NEW RULES FOR INTRA-COMPANY TRANSFEREES**

Last month, Citizenship and Immigration Canada issued new guidelines for assessing intra-company transferees coming to Canada under the "specialized knowledge" category. These guidelines are in addition to existing criteria that intra-company transfers must meet to work in Canada.

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### **What are Intra-Company Transferees?**

Intra-company transferees are employees of non-Canadian companies who are transferred to a related company in Canada for work. There are three categories of intra-company transferees: executives, managers and specialized knowledge workers. The new guidelines apply only to specialized knowledge workers.

### **The Approximate Wage Analysis**

The new guidelines now instruct officers to scrutinize the wage that will be paid to the intra-company transferee while working in Canada. Previously, wage levels could not be taken into account.

Officers will now analyze whether the wage will approximate the average wage paid in Canada for that occupation in the location the intra-company transferee will be working. In determining the average wage, Citizenship and Immigration Canada will rely on labour market information provided by Human Resources and Skills Development Canada. While officers cannot refuse work permits solely on the basis of the wage, the directives clearly indicate that this new criteria will have to be looked at closely.

### **Can Allowances and Per Diems be Included in the Wage Analysis?**

Allowances for accommodations, meals, and transportation can be included in the calculation of the wage. However, non-cash per diems such as hotel and transportation costs paid by the employer will NOT be included in the calculation of the overall wage. As a result, it may be necessary to adjust remuneration packages to reflect the new guidelines.

### **Promotions, Demotions and Lateral Moves**

Another change now requires officers to determine if the position the intra-company transferee will occupy in Canada is similar to the position they hold

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abroad. If the intra-company transferee is coming to Canada in the same position or is being promoted, problems should not occur. However, where the intra-company transferee takes on a lower position in Canada, Citizenship and Immigration Canada will consider whether this is an "exceptional" case.

*This article is prepared for general information purposes only. The contents should not be viewed as legal advice or opinion. If you have specific questions concerning immigration law, you should discuss them with a legal advisor of your choice.*

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