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New rules on obligatory pension insurance of foreign employees

On 1st of January 2012 the Federal law dd. 3 December 2011 No. 379-FZ "On introducing amendments into certain legislative acts of the Russian Federation on questions of establishing tariffs of insurance payments for state non-budget funds" has entered into force.

The main change that has been introduced by this law is to article 7 of the Federal law dd. 15 December 2001 No. 167-FZ "On obligatory pension insurance in Russian Federation", namely into the definition of the insured person.

The new wording of the article significantly broadens the range of persons, for which the pension insurance is obligatory. The most crucial is that since the entry of law into force, foreign employees are subject to pension insurance and the employers shall pay 22% of insurance payments, calculated on the basis of the income, received by this employee.

To qualify for such insurance, the following criteria shall be satisfied:

- 1.the employee must be temporary sojourning or temporary residing on the territory of the Russian Federation;
- 2.the employee must have an employment contract for not less than 6 months or for indefinite period of time;
- 3.the employee must not be a highly skilled professional.

So, in order to avoid additional payments to Pension fund for foreign employees who previously have been exempt from pension insurance we would highly recommend either:

- to conclude employment agreements for the term not exceeding 5 months (in this case should the employment contract be terminated, no need arises to inform the Federal migration service, if the employee stays within Russia and is not a CIS-state citizen);
- to register such employees as highly skilled professionals, since along with pension insurance exemption, several other advantages arise out from this status both for the employee and the employer.