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Global Mobility: Transfer of Specialists within an International Group of Companies (Know-How Transfer)

From San Francisco to London, from London to Singapore and finally from Singapore to Switzerland. Welcome to an example life of an expat. Every few months or at the latest every few years, suitcases are packed, boxes piled up and containers loaded to transport all the belongings to the new home. Specialists in their field and at home anywhere in the world. Highly qualified international workers benefit companies all over the globe. Once they arrive at their new place, they implement specialized knowledge, develop new business strategies and multiply the company's profits. There is a reason why the expertise of these specialists is in such high demand and highly valued: Companies today are more global than ever before, which is also reflected in the increasing mobility of their employees due to the aspired know-how transfer.

In order to meet this growing demand from international companies in Switzerland for highly qualified international specialists, appropriate work permits must be obtained. Hereby, a distinction is made between the constellation where the specialist is temporarily assigned to Switzerland (the employee remains on the foreign payroll and receives an assignment contract) or is employed locally in Switzerland (with a Swiss employment contract). Within the next two pages, we provide a short overview and a check list of the most common options in Switzerland.

I. ASSIGNMENT – L PERMIT

The common option for short term inter-company transfers of highly qualified specialists is the assignment from the home company to a Swiss host company for a limited duration. In general, the following key points apply for such assignments to Switzerland:

- Assignees generally must have been employed by the sending / home company for over 12 months.
- The applicant must not have a local contract in Switzerland. The employment contract must remain outside Switzerland. The employment contract should be maintained with the home country (sending / home entity).
- EU / EFTA nationals on assignment must get pre-approved work permits.

- Payroll in the home country.
- The entity in Switzerland must sponsor the application.
- The applicant should have a university degree. In addition, the more experience, the better.
- The minimum salary varies from canton to canton, and according to the role the applicant will carry out while working in Switzerland. It must be appropriate to the applicant's age, education, professional experience and comply with local standards.
- Switzerland has a quota system for certain types of permits. Quotas are per calendar year and distributed to the cantons according to economic necessity. The Federal Migration Office keeps further quotas on reserve.
- The L Permit is granted for limited periods of stay of generally up to one year (depending on the duration of the assignment contract). It may be extended by up to two years. After expiry, the L Permit may only be granted again after an appropriate interruption of stay in Switzerland.
- Police clearance certificate(s) (issued within 6 months immediately before the registration application) will be required for the registration for the applicant and dependents aged over 18. In some cases, this is requested at the work permit application stage.
- No Labor Market Test required.

II. LOCAL HIRE – L (SHORT TERM) OR B (LONG TERM) PERMIT

In alternative, international organizations might choose the option of a local hire by the host company in Switzerland in order to ensure the global mobility of their specialists. When considering this option, the following principles apply:

- The applicant must have an employment contract directly with the Swiss entity.
- An entity in Switzerland must sponsor the application.
- The applicant should have a university degree.
- Salary must correspond to what a resident would expect to receive for the same position.
- Payroll in Switzerland.
- Work permit approval may be issued for an indefinite period. Residence permits require annual renewal.
- EU / EFTA citizens do not require a pre-approved work permit if they are on a Swiss contract; work permit issued upon registration.
- Labor Market Test is required if the employee is not an indispensable specialist or a senior manager with a commensurately high salary transferring within the same group of companies to a specialist / management position in Switzerland. If the Labor Market Test is required, the position must be advertised nationally for several months (the exact timing expected may vary from canton to canton and on a case-by-case basis and should be checked for each case) to demonstrate that efforts have been made to recruit a Swiss/EU/EFTA national/resident worker.

- EU / EFTA citizens will usually be granted a B Permit upon their local registration. Nationals of other countries (except for high-level executives) are typically issued L Permits for the first two years, although exact policies vary by the canton of employment.

Inter-Company applications for work permits for non-EU citizens are carefully examined by the authorities and granted with restraint, considering the limited quotas. In any case, it is therefore very important to make the necessary inquiries before applying for a work permit in order to analyse whether the candidate is eligible as well as to increase the chances of success of an application being approved.

At bratschi, global mobility experts Seraina Schaufelberger and Curdin Käser, members of the Business Immigration Team led by head attorney Mark Ineichen, support and advise international companies as well as their employees on their global mobility needs to ensure smooth processes for secondments and transfers of highly skilled workers.

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