

SWITZERLAND SETS WORK PERMIT QUOTAS FOR 2017: WHAT EMPLOYERS NEED TO KNOW

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Switzerland has used quotas as a tool to regulate the flow of various categories of foreign workers for a number of years. On October 12, 2016, the Swiss Federal Council decided in favor of a moderate increase in the maximum quota numbers for highly qualified workers from outside the EU/EFTA for 2017. Additionally, they decided that the quota numbers for service providers from EU/EFTA countries would remain at the same level for 2017 as it was this year.

In order to help you understand how these quotas may affect your business, we have created a short Q&A guide regarding the below questions:

1. How do the quotas for 2017 compare to those available in 2016?
2. When do the Swiss authorities need to "spend" one of the above quotas on a foreign worker?
3. When are the above quotas released?
4. I keep hearing that immigration in Switzerland is tightening. How does this announcement fit into the current political climate?
5. What are some tips to companies for planning proactively with regard to quotas?

1. How do the quotas for 2017 compare to those available in 2016?

Here below is a summary of the quotas for 2017 as compared against what is available in 2016.

	2016	2017
Non EU B Permit Quotas	2500	3000
Non EU L Permit Quotas	4000	4500
EU/EFTA Service-Provider B Permit Quotas	250	250
EU/EFTA Service-Provider L Permit Quotas	2000	2000

As a supplement to the total 7500 Non EU work permit quotas for 2017, there will be an additional 1000 Non EU quotas (500 B permit, 500 L permit) placed in reserve by the federal government in case cantons run out of Non EU quotas at some point during 2017. In such a situation, it would then be in the discretion of the federal government to release those reserved quotas to the cantons as they deem appropriate.

2. When do the Swiss authorities need to "spend" one of the above quotas on a foreign worker?

In the case of Non EU Nationals, if the employee will need to work in Switzerland for more than 4 months (120 days) over the period of one year, then the Swiss authorities will need to use a quota in order to grant the approval for such a work permit. This applies regardless of whether the Non EU national employee is on assignment or employed on a local Swiss contract. In the case of EU-27/EFTA nationals, if the employee will be on assignment in Switzerland and will need to work in Switzerland for more than 4 months (120 days) over the period of one year, then the Swiss authorities will need to use a quota in order to grant the approval for such a work permit. In the case of locally hired EU-27/EFTA nationals, no quota is currently applicable.

Additionally, in some cases when an L permit is converted to a B permit, a B permit quota must at that time be used.

3. When are the above quotas released?

Non EU quotas are released once a year, at the beginning of the calendar year. EU-27/EFTA Service Provider quotas are released on a quarterly basis during the year. For example, this means that although the annual total for 2017 is 2000 for EU-27/EFTA Service Provider L permits, during each quarter of the year only 500 of such quotas are available. It is thus normal in many of the most economically active cantons for these quotas to become extinguished at some point during each quarter.

4. I keep hearing that immigration in Switzerland is tightening. How does this quota announcement fit into the current political climate?

This particular announcement regarding these categories of quotas seems to reflect a pragmatic approach, effectively balancing Switzerland's economic interests with the need to regulate immigration. These quotas, however, only represent one piece of the overall immigration "picture" in Switzerland. It is important to keep in mind that Switzerland must soon, (by February 9, 2017) implement the new constitutional provisions on immigration as a result of the popular initiative from February 9, 2014. Negotiations between the EU and Switzerland are still taking place in order to agree upon how these new constitutional provisions will be implemented, but nothing as of yet has been concretely decided. It is accurate to say that some new immigration limits and restrictions are likely to occur once the new provisions are implemented. For the moment, the bilateral Agreement on the Free Movement of Persons remains in place between Switzerland and the EU.

5. What are some tips to companies for planning proactively with regard to quotas?

- If you know that an EU-27/EFTA national service provider on assignment or any Non EU National will need to come work in Switzerland, if possible try to limit the duration of the work to 4 months (up to 120 days max) during the period of one year.
- If you require EU-27/EFTA national service providers to work in Switzerland on assignment for over 4 months duration, try to file the work permit application at the beginning of the quarter, (when sufficient quotas are more likely to be available).
- Likewise, in the case of a Non EU National employee who will need to work in Switzerland for over 4 months, try to file the work permit application early in the calendar year.
- Check the immigration requirements for both EU nationals and Non EU nationals well ahead of time, (applicable process, documents needed, applicable minimum salary, etc)

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