SPECIAL WORK PERMIT

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The Immigration Act, Section 9, para . a provides that aliens may be admitted as non-immigrants, if they are temporary visitors coming for business. The business may be commercial, industrial, or professional in character, but does not include coming for employment, or for clerical or manual work.

The business of temporary visitors refers to legitimate activities of a commercial or professional character, and does not include purely local employment or labor hire. (Karnuth v. Alboro , 279 US 231 (1929)).

Under Republic Act No. 5455, the Board of Investment issued a circular defining acts which do not constitute "doing business in the Philippines," i.e., these acts are considered non-immigrant business: conducting business surveys or other isolated business transactions, including consultations, advice, and negotiations; providing technical consultations; or performing services auxiliary in an isolated contract of sale, such as installing machineries in the Philippines.

The suggested administrative test to determine if a non-immigrant business visit is involved, includes the following elements (Gordon and Rosenfield, 1 Immigration Law and Procedure 2-45):

1. A clear intent to retain foreign residence and domicile;

2. The principal place of business, and the place where the profit accrues, remains in the foreign country ;=

3. While the business activity need not to be temporary, and indeed may be continued, the various entries into the Philippines must individually and separately be of a plainly temporary character.

Under these principles, the temporary visitor may engage in non-immigrant business for the period of his authorized stay, provided that he secures a Special Work Permit (SWP) from the Commissioner. He shall accomplish an application form stating certain particulars, which shall bear his handwritten signature, and photograph taken no longer than 30 days from the date of the application. [sic]

Temporary visitors for business required to apply for an SWP include, but are not limited to:

a. Professional athletes competing only for the limited period of authorized stay;

b. Aliens of distinguished merit and ability entering to perform exceptional temporary services, but having no contract of pre-arranged employment;

c. Artists and other performers who wish to perform in the country and the audience pays for the performance;

d. Aliens coming primarily to perform non-competitive temporary services or to take non-competitive training who would be classifiable as temporary workers or industrial trainees, except that they do not receive a salary or other remuneration from a Philippine source, other than expenses incidental to their temporary stay;

e. Aliens authorized to search for hidden treasure;

f. Movie and television crews filming in the country;

g. Alien journalists pursuing their profession in the country.

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Under the CID Schedule of Fees, para . 3, a petition for permit to work shall be assessed P300; plus an overtime fee of P200 for Express Lane service; or a total of P500 per applicant. If a single application covers more than one applicant, only a single overtime fee of P200 shall be assessed, but the applicant shall be individually assessed the application fee of P300 each.

Adopted: 25 May 1988

(SGD.) MIRIAM DEFENSOR SANTIAGO
Commissioner

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