



January 3, 2012

Immigration Law Update

Current Developments in Employment-Based Immigration

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Dear Lori,

This is the latest installment in our efforts to keep you apprised of the rapidly changing U.S. immigration environment. Some of the most recent changes could have a serious impact on you or your employees, and we urge you to communicate these changes to interested parties.

H-1B Cap Count Met

On November 22, 2011, USCIS announced it had exhausted the fiscal year statutory cap of H-1B petitions. Please note that individuals who have already been counted against the cap are still able to amend their petitions, and/or extend their current petitions. H-1B petitions for next fiscal year, which require start dates of October 1, 2012 or later, can be filed as early as April 1, 2012. Employers with new hires who are impacted by the H-1B cap count should contact Rosner Partners to discuss alternative status options.

FDNS Unannounced Phone Calls

A few months ago Rosner Partners advised that the USCIS Office of Fraud Detection and National Security (FDNS) is conducting unannounced site visits at H-1B worksites. We have now learned that FDNS investigators are also beginning to make cold telephone calls to employers to verify H-1B workers' employment information. Investigators are generally looking to confirm two things: (1) the employer actually exists, and (2) the H-1B beneficiary is a "legitimate" employee. They may ask how many employees the company has, if they can speak to the H-1B employees and request information regarding the individual's pay records. In the phone calls, investigators have been asking for follow-up emails, and providing their e-mail

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addresses. In the event that your business is subjected to an FDNS cold call, we strongly suggest that you contact our office before speaking with investigators. Investigators are instructed to cooperate with outside counsel if requested by the employer. Our experience speaking to investigators has been generally positive. Be sure to ask for the investigator's name in the event of a visit.

If you would like further advice on how to handle an H-1B site visit or on proactively reviewing H-1B files in anticipation of such a visit/call, we encourage you to contact us.

Before Foreign Nationals Travel

During the next few months many foreign nationals are considering extended trips abroad. Before traveling abroad, however, foreign nationals need to be sure the trip will not impact any currently pending activity on their behalf and that they will not have trouble re-entering the U.S. at the end of their trip. If a foreign national is changing status from within the United States, he or she cannot travel abroad until the change of status is approved, otherwise the change of status will be viewed as abandoned. Additionally, in order to re-enter the U.S. from trips abroad, foreign nationals need to have either a valid visa stamp in their passport which matches their current status or a valid advance parole document. In order to obtain a valid visa in the correct category, foreign nationals may need to visit a U.S. Consulate while abroad, and certain procedures must be followed. Any foreign nationals who have recently extended their non-immigrant status or more importantly have changed their status/have a change of status pending with USCIS currently should contact Rosner Partners before traveling abroad to ensure international travel will not impact his or her status.

January Visa Bulletin

Employment-Based	All Charge-ability Areas Except Those Listed	CHINA-mainland born	INDIA	MEXICO	PHILIPPINES
1st	C	C	C	C	C
2nd	C	01JAN09	01JAN09	C	C
3rd	01FEB06	15OCT04	08AUG02	01FEB06	01FEB06
Other Workers*	01FEB06	22APR03	01AUG02	01FEB06	01FEB06
4th	C	C	C	C	C

Certain Religious Workers	C	C	C	C	C
5th Targeted Employment Areas/Regional Centers and Pilot Programs	C	C	C	C	C

For additional information about any of the topics presented here, please contact us. If you would prefer not to receive future e-mails of this nature, please unsubscribe on the link below.

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