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May 2024 - T&R Immigration Newsletter

In this month's newsletter, T&R provides updates and information about possible retrogression in the June visa bulletin; travel during the summer; and H-1B cap registration data from USCIS.

FILE APPLICATIONS TO ADJUST STATUS PRIOR TO MAY 31 IF PRIORITY DATE IS CURRENT

Based upon the predictions indicated in the June visa bulletin by the U.S. Department of State, anyone with a current EB-2 or EB-3 employment based priority date should file their I-485 application to adjust status to permanent resident before the end of May. It is quite possible that the EB-2 and EB-3 categories will retrogress in June.

- What are the benefits to have the I-485 filed even if there is retrogression?
- Foreign nationals are able to obtain work authorization (EAD) and travel document (AP) if they are not able to extend their underlying nonimmigrant visa status. T
- he EAD allows the person to work anywhere.
- There is adjustment of status portability that allows a person to change jobs to a same or similar position after the Immigrant visa petition (Form I-140) is approved and the I-485 has been pending for more than 180 days.

This is important for foreign nationals in the IT fields experiencing a lot of layoffs.

If you have any questions, please do not hesitate to contact the attorneys at T&R.

JUNE 2024 VISA BULLETIN

U.S. Department of State released the May 2024 Visa bulletin which can be found [here](#). USCIS had indicated that it will use final action dates for employment based cases. There was very little movement in employment based cases this month. The

only change is that EB-3 India moves seven days to August 22, 2001.

Future retrogression anticipated: DOS included guidance on EB-2 and EB-3 visa availability, namely that high demand in the EB-2 and EB-3 employment categories *will most likely necessitate retrogression of the worldwide final action date (including Mexico and Philippines) in the next month to hold number use within the maximum allowed under the Fiscal Year 2024 annual limit. This situation will be continually monitored, and any necessary adjustments will be made accordingly.*

Below is the June 2024 Final Action dates employment chart:

Employment-based	All Chargeability Areas Except Those Listed	CHINA-mainland born	INDIA	MEXICO	PHILIPPINES
1st	C	01SEP22	01MAR21	C	C
2nd	15JAN23	01FEB20	15APR12	15JAN23	15JAN23
3rd	22NOV22	01SEP20	22AUG12	22NOV22	22NOV22
Other Workers	08OCT20	01JAN17	22AUG12	08OCT20	01MAY20
4th	01NOV20	01NOV20	01NOV20	01NOV20	01NOV20
Certain Religious Workers	01NOV20	01NOV20	01NOV20	01NOV20	01NOV20
5th Unreserved (including C5, T5, I5, R5)	C	15DEC15	01DEC20	C	C
5th Set Aside: Rural (20%)	C	C	C	C	C
5th Set Aside: High Unemployment (10%)	C	C	C	C	C
5th Set Aside: Infrastructure (2%)	C	C	C	C	C

SUMMER TRAVEL PLANS? CONTACT YOUR ATTORNEY

As we head into the summer months and people have plans to travel outside of the United States, we want to provide some helpful tips for foreign nationals with travel plans. Here are some basic things for foreign nationals to consider:

- If you have a petition pending for a change of status to another nonimmigrant status, you could abandon that change of status by traveling.
- If you have an I-485 application to adjust status to permanent resident pending with USCIS and have not yet received your advance parole document, you could abandon the adjustment of status application unless in H or L status.
- If you do not have a valid visa in your passport, you will need to apply for a new

one before returning to the United States. You should have your visa appointment booked before traveling as processing times can be longer at most U.S. consulates during the summer. Some consulates will not require an interview if renewing a visa. Check the U.S. consulate website.

- You can check “visa wait times” – how long it will take to get an appointment at a U.S. consulate [here](#).
- If you apply for a new visa in your passport, and the U.S. consulate puts the application in “administrative processing” this could delay your return to the United States.

Basic documentation that nonimmigrant foreign nationals should have with them when they travel include:

- Passport valid for at least six months from the date you want to reenter the United States.
- Original I-797, Notice of Approval, showing valid nonimmigrant visa status.
- Valid nonimmigrant visa stamp in passport (or an appointment to apply for a new one).
- Evidence of employment in the United States if in a work status (H, L, O, etc).

As indicated above, we recommend notifying your immigration attorney of any travel plans.

USCIS PROVIDES DATA ON H-1B CAP REGISTRATION

USCIS recently provided data and statistics on the number of H-1B petitions filed this year. This information includes:

- Total number of unique beneficiaries registered = 442,000
- Total number of unique employers: 52,700
- Number of eligible registrations = 470,342

The number of unique beneficiaries and employers indicated above were comparable to the same numbers last year, but the number of eligible registrations was down from

758,994 last year. This shows that the USCIS changes in the registration system, making it more beneficiary centric, helped to prevent abuse of the system. These changes were made in the USCIS Final Rule: Improving the H-1B Registration Selection Process and Program Integrity announced in January 2024 and effective March 4, 2024.

USCIS provides more details about the H-1B registration process [here](#).

REMINDER: H-1B CAP PETITION DEADLINE OF JUNE 30

As we wrote last month, H-1B petitions must be filed by June 30th. If working with your attorney, provide information and documentation so that the petition(s) can be completed and filed in a timely manner.

If not selected in the H-1B cap, you should consult your attorney for other visa options if your current status is expiring soon. It is possible that there will be a second H-1B cap selection. In past years, we have seen this in August. We will provide any updates if it happens.

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