

Newsletter

Immigration Monthly - February 2013

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DEPARTMENT OF HOMELAND SECURITY (DHS) UPDATE:

- H-1B Reminder: it is time to plan new H-1B petition filings as the H-1B season starts on April 1. By filing early in the season, employers should be able to stake H-1B visa numbers out of the annual 65,000 allocation for college degree level professionals and the 20,000 visas allotted to those with U.S. Master's or higher degree and assure foreign professionals' availability to commence employment on October 1, 2013. Interim (i.e., pre-H-1B) work authorization planning and assessment of any potential gaps in the workers' availability is very important as well and should be discussed with your immigration legal counsel as part of the larger scale immigration planning for the workforce.
- The U.S. Citizenship and Immigration Services (USCIS) has announced a final rule that assists immediate relatives of U.S. citizens that, due to certain immigration violations, have been ineligible to adjust status to that of a permanent resident without a waiver approval by a U.S. consulate in their home country. Under the new rule, these individuals are now able to apply for and obtain a provisional waiver from the USCIS before having to travel abroad for a consular immigrant visa interview. This should help reduce the amount of time U.S. citizens are separated from their relatives applying for immigration to this country.
- As of February 1, the USCIS has started collecting a new immigrant fee of \$165 from permanent immigration applicants. The new fee is aimed at helping the USCIS recover the costs of processing immigrant visas in the U.S. upon the immigrants' processing by the U.S. consular offices abroad. The fee is collected online via the USCIS website and is due upon visa package issuance by a U.S. consulate abroad and before visa holders travel to the U.S.

IMMIGRATION ENFORCEMENT NEWS:

- While awaiting congressional action with regard to the presidential proposal of a broad, comprehensive immigration reform, the U.S. Immigration and Customs Enforcement (ICE) continues its investigative and punitive efforts with regard to U.S. employers engaged in employment-related violations. ICE recently announced completion of an extensive investigation in the San Diego, California area that resulted in civil fines totaling \$173,800 assessed against 10 local employers for failures to comply with U.S. immigration laws. Most of the investigations started with ICE's Homeland Security Investigations (HSI) audits of the employers' Forms I-9 and related employment eligibility verification practices, and led the government's auditors to the employers' poor immigration practices.
- Nationwide, ICE conducted more than 3,000 employer audits throughout fiscal year 2012 and assessed more than \$12.4 million in civil fines. Some of the investigations resulted in criminal prosecutions, but the enforcement emphasis in the recent years has been on broad scope audits and civil penalties for lack of immigration compliance.

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