

Newsletter

Immigration Monthly - November 2012

11/15/2012

HOLIDAY TRAVEL ADVISORY:

In addition to wishing everyone a happy holiday season, we have a few important reminders for travel and vacations. If you, your employees or family members are planning foreign travel, be sure to check passport and visa validity dates and schedule any consular visa appointments well in advance of the trip. U.S. consulates schedule holiday closings and are often short-staffed this time of the year, so be sure to double-check local consular procedures and verify any scheduling changes. Consult your immigration counsel regarding any visa renewal requirements and related timelines as soon as you become aware of any foreign travel plans.

DEPARTMENT OF HOMELAND SECURITY (DHS) UPDATE:

U.S. Citizenship and Immigration Services (USCIS) has announced it has begun transferring some pending immigration benefits filings from the Vermont, California, Texas, and Nebraska Service Centers to the local USCIS field offices or to the National Benefits Center (NBC) for adjudication, as a way to balance workload. Applicants and Petitioners should receive notice from the USCIS of any such transfer of cases. Importantly, please note that the original application filing locations have not changed.

As of November 1, 2012, Taiwan has been added to the list of countries designated for participation in the U.S.'s Visa Waiver Program. Individuals from Visa Waiver Program countries are able to enter the U.S. for a period of up to 90 days for business or pleasure, without first having to obtain a visa. The currently designated countries include Andorra, Australia, Belgium, Brunei, Czech Republic, Denmark, Estonia, Finland, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Monaco, the Netherlands, New Zealand, Norway, Portugal, Republic of Korea, San Marino, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, and the United Kingdom.

DEPARTMENT OF STATE (DOS) NEWS:

The recently published December 2012 Visa Bulletin indicates slight progress with regard to immigrant visa number availability for nationals of the majority of countries falling under the Second and Third Employment-Based immigrant categories ("EB-2 and EB-3"). Interestingly, DOS is predicting that in the upcoming year (2013) it will have to establish a cutoff date for individuals in the China EB-5 Immigrant Investor Visa category. This would be the first time for such an occurrence and could mean a delay in Green Card issuance for Chinese EB-5 investors. As with all immigrant visa categories, a foreign national would only be able to complete Green Card proceedings if his or her priority date is prior to the relevant cutoff date specified by DOS. Investors and employers should seek guidance with regard to long-term immigration planning and ways to mitigate possible government delays during the process.

IMMIGRATION ENFORCEMENT NEWS:

The U.S. Department of Justice (DOJ)'s Office of Special Counsel has entered into a settlement agreement with Tuscany Hotel and Casino, LLC in Las Vegas. The DOJ alleged that the company discriminated against non-citizens in the employment eligibility verification and reverification processes. Specifically, the government alleged that the hotel impermissibly held non-U.S. citizens to a different standard during the I-9 employment eligibility verification and re-verification process by having them provide additional or different documents or information and by asking that specific documents be presented, beyond what is required and allowed under

federal law. The hotel has agreed to pay nearly \$50,000 in back pay and civil penalties, train its personnel on the immigration laws pertaining to discrimination, and provide periodic reports, including copies of certain completed Forms I-9, to the Justice Department for 3 years.

The DOJ also reached settlement with Advantage Home Care, LLC, a New Jersey-based home health care provider, after an investigation into claims of immigration-related discrimination against lawful permanent residents in the employment eligibility verification process. The initial allegation stemmed from an erroneous report of an invalid Social Security number. Under the settlement agreement, Advantage Home Care agrees to pay nearly \$50,000 in back pay and civil penalties, work to identify and reimburse additional individuals that were harmed in the similar scenario, train its human resources personnel on the immigration laws pertaining to discrimination, and be subject to compliance monitoring and reporting requirements for 3 years.

Related Practices

Immigration