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# Immigration Law Update

Current Developments in Employment-Based Immigration

By Rosner and Associates L.L.C.

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*This periodic newsletter will feature current developments in employment-based immigration. It is designed to inform you of changes in immigration law that may affect your business.*



## **Green Cards for Chinese and Indian Employees: Update**

In our last newsletter, we reported that green card processing for Chinese and Indian employees was being delayed, in some cases for as long as four years, as a result of the immigrant visa quotas imposed by statute. This has meant that even if a Chinese or Indian citizen has had an approved immigrant visa petition, he or she has been unable to apply for a green card until his or her priority date (the date the petition or labor certification application was filed) is reached.

In a surprising move, the Department of State recently reported that as of August 1 there will be no backlog for Indian and Chinese citizens seeking to become permanent residents in an employment-based category. The Department of State's most recent Visa Bulletin reported that this is due to a substantial decrease in the number of adjustment of status applications being adjudicated by the Immigration & Naturalization Service ("INS"). This, in turn, is due to a hold on the processing of adjustment applications which has been in place for some time.

Because the hold on adjustment cases is temporary, the State Department expects that a new backlog in immigrant visas for Chinese and Indian nationals will form in the near future. In addition, it is possible that the cut-off dates which exist this month will actually move backwards in the future. For these reasons, if you have any Chinese or Indian employees who are now eligible to adjust status to permanent residence, we

strongly advise them to file for adjustment AS SOON AS POSSIBLE. A copy of the Visa Bulletin can be obtained from our office or the Internet at [http://travel.state.gov/visa\\_bulletin.html](http://travel.state.gov/visa_bulletin.html). If you have any questions regarding this issue, please contact us.



## **Change in Advance Parole Regulations for Hs and Ls**

The INS recently published new regulations changing the requirements for advance parole for individuals holding H-1, H-4 or L visa status. Under the regulation, published June 1, 1999, an individual in H-1, H-4 or L visa status who is adjusting status to permanent residence may reenter the U.S. without advance parole as long as he or she has a valid H-1, H-4 or L visa stamp in his or her passport, and is able to present the original receipt for the adjustment application.

Under previous rules, all individuals who had applied for adjustment of status who then left the United States temporarily were deemed to have abandoned those applications unless they first obtained advance parole.

Although this change will be helpful to many individuals, many others should continue to seek employment authorization and advance parole when filing for adjustment. These would include employees whose H-1 or L-1 visa status is due to expire soon, or those individuals who travel frequently but who are not eligible for multiple entry visas (such as citizens of China).

If you have any questions concerning this new regulation and its effect on your employees, please contact Rosner and Associates.



## **H-1B Cap Reached**

As many of you already know, the H-1B cap was reached in early April this year, although the INS did not officially confirm this until mid-June. As a result, no new H-1B visas may be obtained prior to October 1, 1999. Fortunately, however, the INS has published a rule which extends the 60 day grace period for F-1 students seeking to change their status to H-1B until approval of the H-1B. It is expected that, unless Congress can be prevailed upon to eliminate the cap, it could be reached again as early as January 2000.

If you have been affected by the H-1B cap, please consider contacting your Congressional representatives to ask them to eliminate the cap. If you would like a sample letter, please contact Rosner and Associates.



**Rosner and Associates** helps corporations to bring foreign nationals to the U.S., and to obtain employment visas for U.S. citizens transferred abroad. We also assist in obtaining permanent residence (green cards), student and exchange visitor visas, naturalization, and in preventing deportation. Please consider us for your immigration law needs.



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