

FROM THE EDITOR'S DESK

Hello and welcome to the December 2012 Immigration Newsletter!

VisaPro wishes all its readers *Happy Holidays* and a very prosperous *New Year!* We are very happy to have spent the last year with you and look forward to continue to help you accomplish your immigration goals in 2013 as well!!

As we usher in 2013, let's take a look back at some of the more interesting and key developments that took place in the world of immigration in 2012:

The FY 2013 [H-1B](#) cap was reached in just 10 weeks—almost five months sooner than the FY 2012 cap the year before. June 11, 2012 was the final receipt date for new H-1B petitions requesting an employment start date in FY 2013, while the Master's Cap was reached even earlier on June 7, 2012. The relatively rapid use of the H-1B quota numbers, in combination with other indicators suggest that the economy is definitely on a path to recovery. It is expected that employers have slowly begun to increase their hiring again, leading many immigration experts to believe that H-1Bs for FY 2014 will be gone within an even shorter time frame than this year. Therefore, it is strongly advisable that employers prepare and file most or all of their H-1B petitions as early as possible- on or as close as possible to April 1, 2013—to ensure that their petitions have the greatest chance to be included in the quota for FY 2014. If you are an employer intending to employ foreign workers on H-1B, make sure to [contact VisaPro](#) at the earliest to discuss all options and not leave things to the last minute.

Among the most significant developments in immigration this year was President Obama's introduction of the "Deferred Action for Childhood Arrivals" (DACA) program.

Happy
Holidays!



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[Latest News](#)

[In Focus](#)

[Processing Times](#)

[Discussion Corner](#)

[Questions and Answers](#)

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The President announced that, through the exercise of prosecutorial discretion, certain eligible young people who are currently undocumented, were brought to the U.S. as young children and do not pose a national security or public safety risk would be eligible to receive "deferred action" for two years. Under DACA, certain young people who came to the U.S. as children (commonly referred to as "DREAMERS") and meet other key requirements, may request consideration for deferred action. The deferred action will offer relief from removal from the U.S. or from entering removal proceedings for a period of two years and will be subject to renewal. Those approved under the program will also be eligible to apply for a work permit (EAD), thus making them eligible to apply for a social security number and apply for work. USCIS began accepting requests for consideration of Deferred Action for Childhood Arrivals on August 15, 2012.

In 2012, President Obama also signed a law that added Israel to the E-2 list of countries whose citizens are allowed to apply for an E-2 visa as an investor or employee. President Obama also signed legislation providing for the extension and re-authorization of the EB-5 Regional Center Program, the E-Verify Program, the Special Immigrant Non-minister Religious Worker Program, and the Conrad State 30 J-1 Visa Waiver Program for three years until September 30, 2015.

Secretary of Homeland Security, Janet Napolitano, announced the designation of Taiwan into the Visa Waiver Program (VWP), permitting eligible Taiwanese passport holders to travel to the U.S. without visas under VWP for up to 90 days for business or tourism. The Department of Homeland Security (DHS) also announced an expansion of the list of STEM (science, technology, engineering, and math) designated-degree programs that qualify eligible graduates on student visas for an optional practical training (OPT) extension [OPT STEM extension].

YOUR OPINION

With President Obama remaining in the White House for another 4 years, do you think 2013 will be an immigration friendly year?

- a. Yes
- b. No
- c. Not Sure

[Cast Your Vote](#)

[View Results](#)

IMMIGRATION QUIZ

Win a FREE Online Consultation!

Submit your answer to the query below. The best response will be published in the next **Immigration Monitor** and the winner will receive a **FREE Online Consultation** from an Experienced VisaPro Immigration Attorney during the month of January 2013.

I am Canadian Citizen currently working in the US on a TN. My wife is coming over to the US to join me as a dependent on TD status. Can she take up employment in the US?

[Submit Your Answer](#)

EXCLUSIVE PREVIEW

U.S. Immigration Strategies - How to avoid costly mistakes and receive more approvals

The VisaPro Team is presenting an inspiring full-day workshop- "[U.S. Immigration Strategies - How to avoid costly mistakes and receive more approvals](#)"- as a part of "Doing Business In The US" Conference series taking place in 6 major cities in India [New Delhi, Mumbai, Pune, Hyderabad, Bangalore and Chennai] during January 2013.

To successfully do business in the U.S., you must have a solid understanding of U.S. immigration policy and law. Our experts and attorneys from the U.S. will define the major areas of immigration law and recommend specific best practices.

Attendees will walk away with an enhanced understanding of:

- Forms of Business Entities: Corporation, LLC, LLP
- Global Mobility and Staffing Challenges
- Successfully Preparing & Filing [B-1](#), [H-1B](#), [L-1](#), [O-1](#) and Green Card Applications
- How to Avoid Costly Mistakes and Receive More Immigration Approvals
- Visas for Artists, Producers, and Musicians
- The Consular Visa Process, Visa Denials and Port-of-Entry Issues
- Employment and Immigration Compliance Requirements
- Developing a Corporate Employment and Immigration Policy

[Reserve](#) your place in this popular Workshop today. Seating at this highly interactive Workshop is limited.

The [U.S. Embassy in India](#) introduced a new visa processing system this year for all consular posts in India under which all first-time visa applicants in India are required to make two separate appointments - one for fingerprinting and submitting photos at an Offsite Facilitation Center (OFC) and the second at the U.S. Consulate or Embassy for the actual visa interview. U.S. Mission India introduced a new website, available in English and Hindi, for scheduling and coordinating visa interviews and for making the visa fee payment. Towards the end of the year, U.S. Mission in India also announced the [expansion of the Interview Waiver Program enabling certain eligible visa applicants who have had an H-1B visa, an individual L-1A or L-1B visa, and students returning to the attend the same school and program to have the visa interview requirement waived.](#)

Immigration Question?

Consult Our Experienced Attorneys



Winner of the Immigration Quiz - November 2012:

Sukumar

The Question:

I am a Colombian Citizen and I married a U.S. Citizen 4 years ago in Colombia. I came to the U.S. on a [K-3](#) visa 3 months ago and I have just filed for my [Adjustment of Status](#). I want to know if I will be issued a 2 year Conditional Green Card or a regular Green Card.

The Winning Response:

A conditional Green Card is issued if your marriage to the U.S. citizen is less than 2 years old. As you have been married for 4 years, you will be issued a regular Green Card, if you qualify for the Green Card.

Sukumar receives a **FREE Online Consultation** from an Experienced VisaPro Immigration Attorney during the month of December 2012.

On the legislative front, a divided Supreme Court of the U. S. delivered its Opinion on the constitutional validity of 4 contentious provisions of the Arizona Immigration Law-SB1070 (Support Our Law Enforcement and Safe Neighborhoods Act), striking down 3 provisions of the controversial law as being unconstitutional. However, the Supreme Court has declined, at this time, to block the most infamous provision of the law providing that officers who conduct a stop, detention, or arrest must, in some circumstances, make efforts to verify the person's immigration status with the Federal Government - the "papers please" law. The Supreme Court said it was too early to rule on the constitutionality of the law without seeing the effects of the law.

Overall, 2012 was not a particularly bad year in immigration. Unfortunately, we didn't see any progress towards Comprehensive Immigration Reform. Based on statements from the President, Congress and momentum gained after the 2012 election results, we hope and expect that 2013 will bring us further good news and developments in that area!!

Other Developments in Immigration Law:

[New USCIS Immigrant Fee to be implemented on February 1, 2013](#)

USCIS has announced that on February 1, 2013, it will begin collecting a new USCIS Immigrant Fee of \$165 from foreign nationals seeking permanent residence in the United States, to recover the costs of processing immigrant visas in the United States after immigrant visa holders receive their visa packages from DOS. The new fee is in addition to fees charged by DOS associated with an individual's immigrant visa application and DOS will provide applicants with specific information on how to submit payment when they attend their consular interview. The fee must be paid before entering the U.S. presenting the sealed consular package at the Port of Entry to Customs and Border Protection.

[January 2013 Visa Bulletin: EB-2 priority date for India remains at 09/01/04](#)

In the recently published U.S. Department of State Visa Bulletin for January 2013, the [EB-2](#) priority dates remained current in respect to all countries other than India and mainland China. The EB-2 priority date for India remained at 09/01/04, even as it advanced from 10/22/07 to

JOB @ VisaPro

- **Full-Time**
- **Part-Time**
- **Semi-Retired**

Job Type: W-2 or 1099

Location: Work from anywhere in the U.S. No need to relocate.

▶ [Immigration Attorney](#)

▶ [Immigration Paralegal](#)

NEW TO VisaPro?

Do you have questions regarding the [H-1](#), [L-1](#), [E-1](#), other work visas or Green Cards? VisaPro has answers to commonly asked immigration questions. [Click here](#) to find out more.

12/08/07 in respect to mainland China. Meanwhile, the [EB-1](#), [EB-4](#) and [EB-5](#) numbers continue to remain current for all countries, even as marginal advancement was seen in [EB-3](#) priority dates.

Immigration Articles and Other Fun Stuff

Our 'Featured Video' for this month titled "[Financial Affidavit of Support: I-134 or I-864?](#)" explains how a Financial Affidavit of Support is required when you sponsor a foreign relative to live permanently in the United States and talks about which Affidavit of Support (Form I-134 or I-864) you need to submit in your situation. Please check out and subscribe to our YouTube channel to take advantage of another great service provided to you by VisaPro.

Also check out our 'In Focus' article for this month titled "[When to Use USCIS Premium Processing Service](#)" in which we present an overview on how to use the USCIS Premium Processing Service.

Every month we introduce a new and interesting question for our opinion poll. Last month's poll results indicate that a majority of respondents (**66.67%**) welcome U.S. Mission in India's decision to expand the Interview Waiver Program to certain qualified [H-1B](#) and [L-1](#) visa applicants. We continue to appreciate that people take interest in the opinion question and cast their votes to give us their feedback. Keep it up! And continue to cast your vote to express **Your Opinion**.



We also congratulate [Sukumar](#) for winning last month's Immigration Quiz. While we received more than one correct response to the quiz question, [Sukumar](#) gave the best answer and won a free online consultation to discuss the concerned Immigration issues. It's time to get ready for this month's quiz. If you know the correct answer your name might be featured in next month's newsletter. **All the Best!!!**

To ensure you receive your Immigration Newsletter, please add Immigration-Monitor@VisaPro.com to your address book or safe list.

See you in the New Year 2013 with a lot more noise from the Immigration World!

Christine

RECENT IMMIGRATION EVENTS



VisaPro Attorney
Mr. Thomas Joy at
NOVA SHRM Seminar



VisaPro Team at
NOVA SHRM Seminar



NOVA SHRM
Seminar Attendees

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FEATURED VIDEO

Financial Affidavit of Support: I-134 or I-864?



A Financial Affidavit of Support is required when you sponsor a foreign relative to live permanently in the United States. Find out which Affidavit of Support (Form I-134 or I-864) you need to submit in your situation.

[More Videos...](#)

LATEST NEWS

[H2B Cap Count Update](#)

USCIS has updated the count of H2B visa petitions received and counted towards the H2B cap for the 1st half of fiscal year 2013 employment. As of December 14, 2012, USCIS has approved approximately 13,774 H2B beneficiaries for the 1st half of FY 2013.

[U.S. Mission in India Expands Interview Waiver Program to H-1B and L-1 Visa Applicants](#)

U.S. Mission in India has announced expansion of the Interview Waiver Program which allows certain qualified individuals to apply for visas without being interviewed in person by a U.S. consular officer. Under the expanded program, certain temporary workers on H-1B visas, individual L-1A or L-1B visas, and students returning to attend the same school and same program may also be considered under the Interview Waiver Program.

IN FOCUS



When to Use USCIS Premium Processing Service?

Under the USCIS Premium Processing Service, paying an additional \$1,225 fee will guarantee an USCIS decision on certain employment-based petitions and applications within 15 calendar days of the receipt of the petitions or applications by the USCIS. While Premium Processing has proven to be a blessing in many cases, it may not always be necessary or advisable to use the Premium Processing Service. Learn how to use USCIS Premium Processing Service.

[Read Full Article](#) | [Read More Articles](#)

PROCESSING TIMES

▶ [Visa Bulletin](#)

▶ [USCIS Processing Times](#)

▶ [Local USCIS Offices](#)



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JANUARY 2013

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EXCLUSIVE PREVIEW

Meet VisaPro's U.S. Attorney for an Exclusive 1-on-1 Consultation in India

We are happy to share with you that VisaPro's U.S. based Immigration Attorney, Mr. Thomas Joy, will be presenting "[U.S. Immigration Strategies - How to avoid costly mistakes and receive more approvals](#)", as a part of "Doing Business In The US" Conference series in 6 major cities in India [New Delhi, Mumbai, Pune, Hyderabad, Bangalore and Chennai] during January 2013.

Mr. Joy, who has more than 35 years in practicing immigration law, will be available for exclusive 1-on-1 consultations between 5 pm and 8 pm IST after the Workshop at the event venues above.

During the past year, the VisaPro team achieved 100% success in helping its clients with U.S. company formation, business strategy and immigration approvals. You can have the same experts help develop customized strategies for your Company and for your specific situation.

[Register](#) for 1-on-1 personal consultation today. Appointments are very limited.

QUESTIONS AND ANSWERS

Q1. Hi. I am a US Citizen and my husband is a Romanian Citizen. I was born in the US but I left the US very young (when I was 4 years old) and haven't been to the US since. I hold a US passport. Please let me know if my son, who was born in Romania two months back, would qualify for US citizenship based on my US citizenship?

Ans. In the case of children born after November 1986, in order to derive citizenship from a U.S. citizen parent, the U.S. citizen parent must have spent at least five years being physically present in the U.S. before the child was born, at least 2 years of which have to be after the US citizen's 14th birthday. From what you have stated, it would appear that you do not meet the 5 year/2 year rule, and hence the child may not be a U.S. citizen at this moment because the 5 year/2 year rule does not apply. You should consult an immigration attorney to review your situation thoroughly and see what options you may have in your situation.

GOT A QUESTION?

If you have a short, simple query on immigration to the U.S., send your questions to us. We will select and answer a few of the queries in every issue.

Note: Responses posted in this section provide only general information. Since immigration law is a complex matter, please [consult](#) an immigration attorney before acting upon any responses provided.

[Ask Your Question](#)

Q2. We are a company looking to employ a foreign national in our organization as a trainee for a brief period. Someone suggested an [H-3](#) visa to us, but we don't know what an H-3 visa is. Can you please let us know what an H-3 visa is for?

Ans. The [H-3](#) Trainee visa is for training. It is not for productive local employment but is primarily for training. The trainee must be prepared for a career outside the US. You have to show that the training that you are providing is not available to the foreign national in his or her home country and you have to show that it is not for training individuals to later work at your local facilities in the US. You must have a structured training program and any productive local employment can only be minimal and incidental to the training program. Please consult an immigration attorney to review the nature of training that you wish to impart to the foreign national to determine whether the individual would qualify for an H-3.

[More Q&A](#)

SUCCESS STORIES

"The VisaPro team handled our [L-1B Visa](#) application professionally and promptly.

Detailed knowledge of the immigration process was evident and excellent guidance was provided at every step. Some unusual circumstances in our application were thoroughly analyzed and options for moving forward clearly explained.

For future US immigration services we will definitely consult with VisaPro."

Ian Turnbull, Chief Operating Officer
[KE Software](#)

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