

FROM THE EDITOR'S DESK

Hello and welcome to the December 2013 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 2014!!

2013 has been a landmark year in the field of US immigration. As we usher in 2014, let's take a look back at some of the more interesting and key developments that took place in the world of US immigration in 2013:

First, the FY 2014 H-1B cap was reached in the first week of filing (reportedly within only a day or two), forcing USCIS to conduct a 'lottery' for the first time since April 2008. USCIS received approximately *124,000 H-1B petitions* between April 1 and April 5, which included petitions seeking the advanced degree exemption. USCIS conducted a lottery on April 7, 2013, to select a sufficient number of petitions needed to meet the H-1B cap.

As a side note, it is important to remember that USCIS will begin accepting H-1B petitions subject to the Fiscal Year 2015 cap on April 1, 2014. With the economy continuing to get stronger and unemployment rates continuing to dip, it is widely expected that we'll be seeing another H-1B lottery for FY 2015! If an employer misses the chance to petition for an employee because the cap is reached, he or she will have to wait until 2015 to file or look for an alternate visa category (which may or may not exactly match his or her requirements). We strongly advise that employers begin to *prepare* most or all of their H-1B petitions as early as possible in order to file the petitions on or as close as possible to April 1, 2014 to ensure that their petitions have the greatest chance to be included in the quota for FY

Happy
Holidays!



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2015. 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.

Let's get back to our look back at 2013. One of the biggest stories affecting immigration was effective death of the Defense of Marriage Act (DOMA). The Supreme Court of the United States (SCOTUS) struck down key parts of DOMA. Specifically, SCOTUS declared that Section 3 of the Act, which prevented the federal government from recognizing same-sex marriages, was unconstitutional. As a consequence of this ruling, same-sex partners are now able to avail immigration benefits on par with other married couples, including the ability to file immigrant petitions, seek status as immediate relatives and dependents of U.S. citizens and legal permanent residents, and seek status as dependents of nonimmigrant visa holders.

Another great immigration milestone was the passage of the Comprehensive Immigration Reform Bill in the Senate by a decisive majority vote. Some of the more popular provisions of the bill included increasing the H-1B cap to 115,00 in the first year with allowances for further increases depending on the demand; introduction of a new merit-based visa program; and elimination of per-country limits in the employment based green card categories. Unfortunately, nearly 6 months after the bill was passed by in the Senate, its passage through the House of Representatives still remains stalled. With House Representatives yet to reach any compromise on their version of a comprehensive immigration reform bill, and some of them working on separate piecemeal legislation, it is still unclear if immigration reform will even occur in 2014 despite lawmakers continuing to state that it's a priority.

Finally, the U.S. government actually *shut down!!!* The first half of October 2013 witnessed a federal government shutdown that lasted 16 days– the third-longest government shutdown in U.S. history. The shutdown significantly impacted certain classes and types of employment based nonimmigrant and immigrant visa processing. While the direct effect on USCIS was minimal, the shutdown directly impacted the Department of Labor as the filing of Labor Condition Applications (LCA's), Prevailing Wage Requests, and PERM applications completely stopped. The inability to file or receive LCA's had a significant impact on [H-1B](#), [H-2A](#) and [H-2B](#) filings. With some experts raising concerns that another federal government shutdown could be a possibility in mid-January if the current Budget doesn't pass, employers are strongly advised to begin their LCA submissions for April 2014 H-1B filings early.

YOUR OPINION

Do you think 2014 will see an Immigration Reform Bill of some sort being passed by the Congress and signed into law by the President?

- 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 2014.

I am currently working in the US on an L-1B. Can I transfer my L-1 visa to another company?

[Submit Your Answer](#)

DOING BUSINESS IN THE US

Earlier this year, our Senior Immigration Attorney, Mr. Thomas Joy, gave Workshop Presentations at the highly successful 'Doing Business In The US' workshops that were organized in six major Indian cities from January 28 to February 8, 2013. His presentation, "U.S. Immigration Strategies: How to Avoid Costly Mistakes and Receive More Approvals," was attended by 750 paid attendees from 600 companies. Mr. Joy presented on various key topics related to [B-1](#), [H-1B](#), [L-1](#), [Blanket I](#), and Green Cards, and provided practical tips and suggestions to the attendees. He also conducted Mock Interview sessions with candidates for B-1 visas.

You may view a few [photographs](#) and [videos](#) of the Attorney Presentation and the Workshop. We look forward to interacting with you all in similar forums in 2014 as well. You may also [contact us](#) if you would like us to arrange a presentation to a group.

Other developments in 2013 included:

- The U.S. Customs and Border Protection (CBP) completed the implementation of the automation of Form I-94 Arrival/Departure Records for all air and sea travelers. With I-94 automation, foreign visitors no longer need to fill out a paper form I-94 when arriving in the U.S. by air or sea. Instead, records of admission are now generated using traveler information already transmitted through electronic means. Travelers who require a hard copy of the arrival-departure record or other evidence of admission can access this information online and print a copy of their I-94. CBP continues to issue paper I-94's at land border ports of entry.
- The Department of State (DOS) nominated Chile for inclusion in the Visa Waiver Program. The nomination initiated a process of verification of various security safeguards and information-sharing requirements before Chile can formally enter the program.
- USCIS's Provisional Waiver Application process, initially announced in early 2012, officially began on March 4, 2013. Under the new program, certain immigrant visa applicants who are immediate relatives (spouses, children and parents) of U.S. citizens can now apply for a provisional unlawful presence waiver *before* they leave the United States to attend an immigrant visa interview at the U.S. Consulate abroad.

Immigration
Question?

Consult Our
Experienced
Attorneys

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Winner of the Immigration Quiz - November 2013:

John Sandler

The Question:

I am filing a [K-1](#) petition for my fiancé. He has a 6 year old daughter who will be accompanying him to the US. Do I need to file a separate petition for her, too?

The Winning Response:

A separate K-1 petition is not required for the daughter of your fiancé. However, you must enter her name in the Form I-129F petition.

John Sandler receives a **FREE Online Consultation** from an Experienced VisaPro Immigration Attorney during the month of January 2014.

Overall, 2013 was an exciting year in US immigration. We hope and expect that 2014 will bring us all further good news and developments in that area!!

Other Developments in Immigration Law:

[January 2014 Visa Bulletin: EB-2, EB-3 Priority Dates Advance for All Countries except India](#)

In the recently published U.S. Department of State Visa Bulletin for January 2014, the [EB-2](#) priority dates remained current in respect of all countries other than India and mainland China. The EB-2 priority date remained at 11/15/04 with respect to India and advanced marginally from 11/08/08 to 12/08/08 in respect to mainland China. [EB-3](#) priority dates advanced for all countries except India, in where the priority date remained at 09/01/03. EB-3 priority dates for China are better than the EB-2 dates.

Immigration Articles and Other Fun Stuff:

Our '**Featured Video**' for this month is "[Visa Cap Rules for: H1B Visa, H1B1 Visa, H2B Visa, and H3 Visa](#)" in which we discuss the various cap rules that employers must keep in mind while considering hiring foreign nationals on H visas. Please check out and subscribe to our YouTube channel to take advantage of another great service provided to you by VisaPro.

Check out our '**In Focus**' article for this month titled "[P-1 Visa for eSport Professionals: Let the USCIS Game Begin!](#)" in which we discuss how recent developments have expanded the growing number of eligible "athletes" who are able to seek a P-1A visa, including eSports professionals who are now eligible to seek P-1A visas to come and perform for payment or prize money in the US.

Every month we introduce a new and interesting question for our opinion poll. Results of our previous poll indicate that half of the respondents (**50%**) think that the [EB-3](#) category will witness significant retrogression in the near future. 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**.

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.

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NEW TO VisaPro?

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



We also congratulate **John Sandler** for winning last month's Immigration Quiz. While we received more than one correct response to the quiz question, **John** 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 next month with a lot more noise from the Immigration World!

Christine

RECENT IMMIGRATION EVENTS



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FEATURED VIDEO

Visa Cap Rules for: H1B Visa, H1B1 Visa, H2B Visa, and H3 Visa



'Visa Cap' refers to the annual numerical limitation on the number of workers authorized to be admitted on, or if already in the United States, authorized to change status to classifications like H1B Visa, H1B1 Visa, H2B Visa, and H3 Visa. Learn about the various cap rules that employers must keep in mind while considering hiring foreign nationals on H visas.

[More Videos...](#)

LATEST NEWS XML

[H2B Cap Count Update](#)

USCIS has updated the count of H2B visa petitions received and counted towards the [H2B](#) cap for the fiscal year 2014 employment. As of December 16, 2013, USCIS has approved approximately 10,869 beneficiaries for the 1st half of FY 2014.

[FY 2014 U Visa Cap Reached](#)

USCIS has announced that it has approved the statutory maximum 10,000 petitions for [U-1](#) visa status for FY 2014 and will only resume issuing U visas on October 1, 2014, the first day of FY

2015. USCIS will send a letter to all eligible petitioners who were not granted U visa status solely due to the cap, notifying them that they are on a waiting list to receive a U visa when visas again become available. In the interim, the regulations do allow these individuals to receive parole and/or deferred action and employment authorization. USCIS will continue to accept U visa applications.

IN FOCUS

XML

P-1 Visa for eSport Professionals: Let the USCIS Game Begin!

Recent developments have expanded the growing number of eligible “athletes” who are able to seek a P-1A visa to come to the U.S. and compete freely in U.S. tournaments and join U.S. teams. USCIS has begun to approve P-1A petitions for eligible professional video gamers who are internationally recognized. Learn how eSports professionals or professional video gamers are now eligible to seek P-1A visas to come and perform for payment or prize money in the US.

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QUESTIONS AND ANSWERS

Q1. In 2006, I was in the US on a New Office L-1 visa. I returned back to Sri Lanka after my extension petition at the end of the 1st year was denied because I did not have enough revenues or employees. Since then my US business has been lying dormant. I am now interested in reviving that business again. Can I seek a fresh L-1 visa for this purpose?

Ans. For a New Office [L-1](#), the company in the US must be related to a company outside the US (presumably, Sri Lanka, in your case) as a parent, subsidiary, affiliate or branch. You must also demonstrate how you were operating as a manager or executive in the Sri Lankan company for at least one year in the past three years. You must be coming to the US either as a manager or executive to start up the US company operations. You will need a new business plan, regular commercial lease and other supporting documents to establish your eligibility for a New Office L-1 visa. We suggest that you review your situation with an immigration attorney to determine suitability of the L-1 visa in your specific situation and understand what steps you may take to enhance your chances of being able to come to the US and work to start the operations of the US business.

Q2. I am a Citizen of Romania. My daughter, now 4 years old, was born in US and is a dual-citizen of both the USA and Romania. She carries both US and Romanian Passport. We are currently living in Bucharest. Is there any visa that I can seek as father of a US Citizen?

Ans. US Citizens are eligible to file green card applications for their parents. However, in order to file a green card petition for one's parents, the US Citizen must be at least 21 years old. As your US Citizen daughter is only 4 years old at the moment, she cannot sponsor a green card for you at this time. We suggest that you review your situation with an immigration attorney to understand what other visa options may be available to you.

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](#)

[More Q&A](#)

SUCCESS STORIES

"The immigration laws on foreign student status have become so complicated that even my school's attorney could not give me concrete advice. But VisaPro professional team helped me to clarify my questions patiently and prepare the documents diligently. My [H1-B visa](#) petition was approved promptly even in between busy Christmas and New Year holidays."

Mei-Po Tam
Hong Kong

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