



FROM THE EDITOR'S DESK

Welcome to the January 2011 edition of the VisaPro newsletter. If you were planning to file an [H-1B](#) petition for your employee but have not done it yet, then time is quickly running out. Hiring in the U.S. has been slowly increasing in many sectors by each passing day, clearly signaling that the economy is recovering. USCIS has already announced that the H-1B advanced-degree quota was met on December 24, 2010. Employers can still seek H-1B cap numbers for in Fiscal Year (FY) 2011 but it is anticipated that H-1Bs for FY2011 may run out as early as the end of January or the beginning of February. Once the H-1B cap for FY2011 is met, employers will have to wait until April 2011 to be able to file again i.e. for a start date no earlier than October 1, 2011!

Employers still planning to file H-1B cap cases for FY2011 employment should [contact VisaPro](#) immediately. Remember, with Labor Conditions Applications taking at least five days for approval, employers must act fast.

The United States Government Accountability Office (GAO) has released a report to Congressional Committees dated January 2011 titled "H-1B Program: Reforms Are Needed to Minimize the Risks and Costs of Current Program". The GAO examined various topics including: what is known about employer demand for H-1B workers; how the cap affects employer costs and decisions to move operations overseas; H-1B worker characteristics; the potential impact of raising the cap; and how well the requirements of the H-1B program protects U.S. workers. The GAO analyzed data from federal agencies, interviewed agency officials, experts, H-1B employers and reviewed agency documents and literary before submitting its 118 page report. The report claims to offer several matters for congressional consideration, including that Congress re-examine key H-1B program provisions and make appropriate changes as

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needed. The report also recommends that the DHS and Department of Labor take steps to improve efficiency, flexibility and monitoring of the H-1B program.

USCIS has just announced that the Department of Homeland Security (DHS), in consultation with the Department of State, has identified 53 countries whose nationals are eligible to participate in the [H-2A](#) and [H-2B](#) programs for the coming year. The new list of eligible countries is effective January 18, 2011, and the designations are valid for one year. This new list does not affect the status of individuals who currently hold valid H-2A or H-2B visas or status. The news list does not include countries from the South Asian Peninsula, such as India, Pakistan, Bangladesh, etc., are still excluded from the list. [Find out](#) which countries are eligible to participate in H-2A and H-2B visa programs in 2011.

The Department of State (DOS) has declared that they will soon publish final rule for the adjusted consular service fee schedule in the federal register. The interim final rule has been in effect since June 4, 2010. This rule amended the Schedule of Fees for Consular Services for nonimmigrant visa application and border crossing card processing fees. The rule implemented a tiered fee structure for the first time. The Machine Readable Visa (MRV) fee for all nonimmigrant visas was \$131 before the rule change. Within the tiered structure, the processing fee for most non-petition based non-immigrant visas is \$140. Most MRV fee for most petition-based visas is now \$150. The rule also increases the fee for the Border Crossing Card for Mexicans from \$13 to \$14.

U.S. Citizenship and Immigration Services (USCIS) announced the implementation of the Help HAITI Act of 2010, which authorizes USCIS to grant lawful permanent resident status to certain orphaned children from Haiti, who were paroled into the United States under the Haitian Orphan Parole Program (HOPP) after the Jan. 12, 2010 earthquake. The Help HAITI Act of 2010 authorizes the Secretary of the Department of Homeland Security to adjust HOPP parolees who are physically present in the United States to LPR status.

USCIS issued an interim memo for the adjudication of any applications for [Adjustment of Status](#) under the Help Haiti Act 201. Applicants filing for adjustment pursuant to the Help HAITI Act are instructed to file Form [I-485](#), Application to Register Permanent Residence or Adjust Status, by noting "Help HAITI Act" in Part 2(h): Other basis for eligibility. Applications for adjustment under this Act must be filed at any time on or before December 9, 2013.

YOUR OPINION

Do you favor GAO's recommendation to the DHS and DOL to take steps to improve efficiency, flexibility and monitoring of the H-1B program?

- a. Yes
- b. No
- c. Can't say

[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 February 2011.

I am a director of a manufacturing company that currently has offices only in London, UK. I am going to open a new office in the U.S. this year while on an [L-1A](#) visa. Can I concurrently file my L-1A New Office petition and an [EB-1C](#) employment-based immigrant petition?

[Submit Your Answer](#)

Other Developments in Immigration Law

New Countries Eligible to Participate in H-2A and H-2B Programs

The Department of Homeland Security in consultation with the Department of State, has identified 53 countries whose nationals are eligible to participate in the H-2A and H-2B programs for the coming year. This new list does not affect the status of individuals who currently hold valid H-2A or H-2B visas or status. A national from a country that is not on the list may be the beneficiary of an approved H-2A and H-2B petition if the Secretary of Homeland Security determines, in her sole and unreviewable discretion, that it is in the U.S. interest for the alien to be a beneficiary of the petition.

USCIS Implements Help HAITI Act of 2010

USCIS announced the implementation of the Help HAITI Act of 2010. This new law authorizes USCIS to grant lawful permanent resident status to certain orphaned children from Haiti, who were paroled into the United States under the Haitian Orphan Parole Program Exit Disclaimer after the Jan. 12, 2010, earthquake.

Immigration Articles and Other Fun Stuff

Check out our **In Focus** section for this month, titled "**B-1 Visa Extension Application: Issues to Consider Before Filing**" aims to shed light on some basic and important things to consider when making the crucial decision about whether or not to file or when to file for a [B-1](#) visa extension.

Every month we introduce a new and interesting question for our opinion poll. Last month's poll results indicate that **70.00%** of the respondents favor USCIS' proposed rule of requiring online pre-registration of employers who are filing [H-1B](#) cap petitions. We appreciate that people take interest in the opinion question and cast their vote to give us their feedback. Keep it up! And continue to cast your vote to express **Your Opinion**.



We congratulate **Barbara Samuel** for winning last month's **Immigration Quiz**. Again, we received a significant number of responses from our readers, who talked about various solutions to support their position, but **Barbara Samuel** gave the correct answer

and won a free online consultation to discuss the concerned Immigration issues. So it's time to get ready for this

Immigration
Question?

Consult Our
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Attorneys

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Winner of the Immigration Quiz - December 2010:

Barbara Samuel

The Question:

Can one recapture the time he or she has spent outside the U.S. while on [H-1B](#) status?

The Winning Response:

Yes, any time spent outside the U.S. while in [H-1B](#) status can be recaptured through an extension of status application. You may file a regular H-1B application and supporting documents requesting an extension for any amount of time you have remaining. If you are recapturing the time you spent outside the U.S., you need to provide proof of the time spent outside the U.S. This would usually include exit and entry stamps in your passport showing the dates you left the U.S. and entered another country and/or boarding passes and itineraries. Mexican and Canadian nationals on H-1B should be sure to request that each entry and exit be

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



We are pleased to share that the VisaPro team was a part of the Presidential Executive Mission to India.

Mr. Ramineni (standing on the extreme right, holding the President's hand) from our DC office is interacting with President Obama.

[Read Full Article in Los Angeles Times](#)

stamped in order to create a record of trips.

Barbara Samuel receives a **FREE Online Consultation** from an Experienced VisaPro Immigration Attorney during the month of February 2011.

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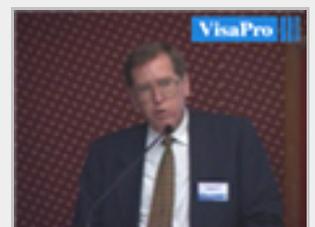
Location: Work from anywhere in the U.S. No need to relocate.

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Lost in immigration jargon and can't seem to find the right category? Try VisaPro's [Immigration Dictionary](#), with over 400 terms, it is the most comprehensive immigration dictionary on the internet.

Wanted to take part in our immigration events, but missed your chance? Check out the informative library of immigration law videos from past conferences.





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LATEST NEWS [XML](#)

[H1B Cap Count Reaches to 60,700](#)

USCIS has recently updated the count of H1B visa petitions received and counted towards the H-1B cap for the fiscal year 2011 employment. As of January 18, 2010, USCIS has received 60,700 H1B cap subject petitions against the cap limit of 65,000. The advanced-degree exemption of 20,000 was reached on December 24, 2010.

[USCIS Revises Form for Naturalization Candidates Seeking Medical Disability Exceptions](#)

USCIS has revised Form N-648, Medical Certification for Disability Exceptions, for individuals with disabilities who are seeking exceptions from the English and civics requirements for naturalization. USCIS will accept the previous version of the Form N-648 for 90 days, from Dec. 22, 2010, until March 21, 2011. Beginning March 22, 2011, USCIS will only accept the current version of Form N-648, dated 9/24/2010.

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IN FOCUS

[XML](#)

[B-1 Visa Extension Application: Issues to Consider Before Filing](#)

Shaun, an Australian national, came to the U.S. on B-1 visa two months ago. He was initially admitted for four months and he now has two months remaining on his I-94 card. After arriving in the U.S., Shaun and his foreign employer realized that the meetings Shaun came to the U.S. to attend will not be completed in the four month period granted to him and they may need at least another four months more to conclude them. They were unsure whether to seek an extension of stay or send him back to Australia and bring him back later. Their friends often gave them conflicting opinions, which made them more confused, leading Shaun to remark, "to file, or not to file – that is the question."

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DISCUSSION CORNER

[Citizenship application with 180 days each year](#)

By NormargB

[Drink Driving conviction and Visa Waiver](#)

By Schwez

[Social Security no for F1 holders...](#)

By Khai Kohokoho

[More Discussions](#)

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QUESTIONS AND ANSWERS

Q1. I am a citizen of Canada and currently I am in US on TN visa which was filed by Company A and it is valid for next six months. Now I have another job offer from Company 'B'. Can I change my employer without applying for a new TN visa? Or should my new employer file a new TN Visa? If possible can my new Company 'B' file my H-1B visa for me now?

Ans. The [TN](#) visa is employer specific so you cannot change employers until you have a new TN for your new employer. You can either process the new TN at the border or you can file for a change of status with the USCIS service center. If you process at the border, you will get the approval at the time of filing. If you file for a change of employer with the service center it will take 15-75 days for a response. And yes, your new employer may file an [H-1B](#) for you now as the H-1Bs are still available.

Q2. My wife and I divorced while she was applying for her Green Card, then, after half year, we reconciled and remarried. In our recently filed DS-230 form

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](#)

(we are applying for consular processing), we did not put the information about this divorce & remarriage incident. How serious this may impact our application? What is the best option I have right now?

Ans. You need to file a corrected [DS-230](#) with the consulate to correct the information. The fact that you were divorced and remarried will not keep you from getting your Green Card as a derivative of your wife. The critical point is that you are married at the time your wife was granted her immigrant visa.

While the divorce and remarriage will not keep you from getting your immigrant visa with your wife it may raise some questions with the consular officer that will interview you. You should be ready to answer questions about why you separated and how you reconciled and remarried. You should take evidence with you to the interview to show that you have a valid marriage and that you did not remarry just for you to get a green card.

[More Q&A](#)

SUCCESS STORIES

"I just wanted to write you a quick note to thank you for all of your efforts regarding my new [H1-B visa](#).

I truly appreciate your thorough follow-up to the USCIS request for evidence. Your quick turnaround ensured that my visa was issued in a timely manner."

Thank you once again!

Regards,

TED,
United States

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