



## FROM THE EDITOR'S DESK



**President Obama completed his first 100 days as a President of the United States of America on April 29, 2009.** The president continues to enjoy high marks from the public—69% of people approve of the job Obama is

doing according to the latest Wall Street Journal. NBC News poll says, Barack Obama received better ratings than either former Presidents George W. Bush or Bill Clinton had at their respective 100-day marks.

As Barack Obama completes his first 100 days as U.S. president, his performance is being compared with that of former President Franklin D Roosevelt. President Obama says, "I'm confident in the future, but I'm not content with the present."

The president continues to get high personal favorability ratings across a range of attributes. Overall, 72 percent of Americans have a favorable impression of Obama, down slightly from the eve of his inaugural but far higher than it was during the 2008 campaign. The Washington Post reported President Obama's overall rating remains high, with 69 percent of Americans approving of his job performance.

### Oops! The H-1B Cap Is Not Reached Yet:

In a dramatic change from the past few years, it has been more than a month since the [H-1B](#) filing period began and the USCIS reports that it has not yet reached the H-1B cap for fiscal year 2010. This literally has been one of the

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biggest surprises of the year. USCIS on April 27 informed the public that they have received approximately 45,000 H-1B petitions for fiscal year 2010 employment. And their next update on May 5 showed there was no change in the H-1B cap numbers.

The economic recession and TARP funding rules have made H-1B hiring tough. With so many difficulties for H-1Bs already lined up, along came the Durbin-Grassley Act. Senators Dick Durbin (D-IL) and Chuck Grassley (R-IA) on April 24, 2009, introduced the H-1B and [L-1](#) Visa Reform Act. The Durbin-Grassley Act aims to reform the H-1B and L-1 guest-worker programs to prevent abuse and fraud and to protect American workers.

Most professionals seem to prefer to work in their home country rather than coming to US with the risks and uncertainties they will face. However, the USCIS presumes that the H-1B visa demand will increase in the coming weeks, as students complete their degrees and/or complete their OPT and become eligible for H-1B visa.

[Contact VisaPro](#) immediately to assist you with the H-1B filing using the fast, easy and economical online visa processing.

### The Durbin-Grassley Reform Act:

Assistant Senate Majority Leader Dick Durbin (D-IL) and Senator Chuck Grassley (R-IA) on April 23, 2009, introduced the H-1B and L-1



Visa Reform Act - a narrowly-tailored bipartisan legislation that would reform the H-1B and L-1 guest-worker programs to prevent abuse and fraud and to protect American workers.

It is the second time in two years Senators Grassley (left in picture) and Durbin proposed legislation that aims to curb the use of H-1B and L1 visas. They introduced a bill that prohibits employers from hiring additional H-1B and L-1 guest workers if over 50 per cent of their employees in the US are H-1B and L-1 visa holders. The H-1B program allows US companies to bring in foreign skilled workers when such skills are in short supply.

"Our immigration policy should seek to complement our U.

## YOUR OPINION

Do you think the Durbin-Grassley Reform Act will make [H-1B](#) hiring tough?

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

[Cast Your Vote](#)

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## 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 May 2009.

*Joseph Bilal is currently on [J-1](#) visa and he is subjected to the Two-year Home Residency Requirement. Is there any other visa for which Joseph can qualify like Green Card or work visa, so that he does not have to go back to his home country for two years?*

[Submit Your Answer](#)

S. workforce, not replace it," Durbin said in introducing the bill. "Some employers have abused the H-1B and L-1 temporary work visa programs, using them to bypass qualified American job applicants. This bill will set up safeguards for American workers, and provide much-needed oversight and enforcement of employers who fail to abide by the law."

"This is about protecting the American worker," said Senator Grassley. "We're closing loopholes that employers have exploited by requiring them to be more transparent about their hiring and we're ensuring more oversight of these visa programs to reduce fraud and abuse. A little sunshine will go a long way to help the American worker."

The Senate is not only looking into abuses of the H-1B program, but has also started taking a close look at the L-1 visa. With the Senate requesting tougher scrutinizing of worker visas, we may soon see many companies refraining from hiring skilled foreign workers to avoid unnecessary hassles.

**Many believe if this bill is passed, it will make America globally less competitive.** Many skilled workers would start looking at European countries rather than the US. These countries would love to have these skilled workers to gain an edge over their counterparts. If this were to happen America could lose its leading position in the world.

On other hand, foreign students and workers who might prefer to stay in the US can, and increasingly will, also return to their home countries to launch businesses. They can then compete with American companies instead of adding value to them. And when they return home, they can honestly say that America is not the land of opportunity for people like them.

## Other Developments in Immigration Law

### [DOL Postpones Use of iCERT System for LCAs](#)

The Department of Labor (DOL) has postponed obligatory use of the new iCERT online portal for labor condition applications (LCAs). Employers will now be able to use the legacy online system for H-1B, [E-3](#) and [H-1B1](#) LCAs through June 30. [USCIS Update on Extension of J-1 Entry Date and Qualification for Conrad 30 Program](#)

USCIS reminds public that the Public Law 111-9 extends the date by which international medical graduates are to be granted [J-1](#) nonimmigrant status in order to later qualify for the "Conrad 30" program.

### [USCIS Revises Form I-914 for T Nonimmigrant Status](#)

Immigration  
Question?

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**Winner of the Immigration Quiz - April 2009:**

Abbas

### **The Question:**

*Is an E-3 with personal trainer/nutritionist as my specialty occupation the best way to go to US?*

### **The Winning Response:**

The [E-3](#) visa is for Australian citizens. There is no quota issue attached with E-3as there is with the [H-1B](#). There are three basic elements for an E-3 visa: (1) you must have either a 4 year American university or college degree in a professional field or a foreign degree which is the equivalent of a 4 year American university or college degree, or alternatively a combination of education and experience that is equivalent to 4 years of American university or college degree; (2) the job offered to you must be a job that requires a minimum of a bachelor's degree in the related professional field; and

USCIS recently issued a revised version of Form [I-914](#), Application for T Nonimmigrant Status, with a 3/30/09 edition date. USCIS will accept older editions of the form for 30 days until 6/6/09. The revised Form I-914 is effective May 6, 2009.

## Immigration Articles and Other Fun Stuff

Now for the regulars – this month's **Immigration Article** entitled '*Can One Get Married On a Tourist Visa?*' discusses all the pros and cons of one getting married to a US citizen on a tourist visa. Also check out our **In Focus** section for this month, which is designed to help you understand the meaning and purpose of the Electronic System for Travel Authorization (ESTA). The article also throws a light on the differences between the Electronic System for Travel Authorization and a visa.

Every month we introduce a new and interesting question for our opinion poll. Last month's poll results indicate that **55%** of the respondents believe that USCIS will receive enough petitions to meet the H-1B cap for the FY2010. 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 **Abbas** 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 **Abbas** 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 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](mailto: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*

(3) the company must agree to pay you at least the prevailing wage or higher for that type of position in the geographic area of the job offer.

Thus, if the job of a personal trainer or nutritionist requires all of the above 3 elements, then the job would qualify for an E-3 visa.)

**Abbas** receives a **FREE Online Consultation** from an Experienced VisaPro Immigration Attorney during the month of May 2009.

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## RECENT IMMIGRATION EVENTS



VisaPro Attorney  
Mr. Thomas Joy  
at Bangalore



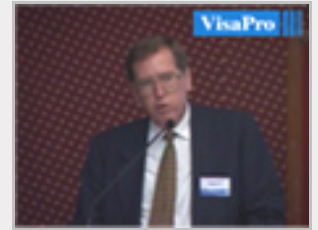
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## LATEST NEWS

### [USCIS Received Only 45,500 H-1B Petitions Till Date](#)

USCIS updated the count of H-1B petitions received and counted towards the H-1B cap for the fiscal year 2010. As of May 17, 2009, USCIS has received 45,500 H-1B cap subject and 20,000 advanced degree petitions. USCIS however will continue to accept both cap subject petitions and advanced degree petitions until a sufficient number of H-1B petitions have been received to reach the statutory limits.

### [State Department Releases June 2009 Visa Bulletin](#)

The State Department has recently released the Visa Bulletin for June 2009. As per the June 2009 Visa Bulletin, the waiting period for the second employment-based green card (EB-2) category will increase considerably for India next month. The State Department will impose a cut-off date of January 1, 2000 for EB-2 India – a retrogression of more than four years – in order to make sure that annual quotas are not exceeded. The third employment-based preference category (EB-3) will remain unavailable for all countries and waiting periods for all other employment-based categories will be unchanged.

### [Law Extends Non-Minister Special Immigrant Religious Worker Program](#)

USCIS announced the extension of non-minister special immigrant religious worker program through September 29, 2009. Unless Congress extends the expiration date of the program, USCIS will suspend processing of affected applications and petitions on September 30, 2009.

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IN FOCUS

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## What is ESTA: Is ESTA Required For Travelers Under the Visa Waiver Program (VWP)?

What is ESTA? Is ESTA really required for travelers under the visa waiver program (VWP)? People often confuse the ESTA Travel Authorization with a visa but it is not true. The ESTA Travel Authorization is not a visa. Then what actually is an ESTA? This article is designed to help you understand the meaning and purpose of the Electronic System for Travel Authorization (ESTA). The article also throws a light on the differences between the Electronic System for Travel Authorization and a visa. The Electronic System for Travel Authorization has made visiting the United States an easy and simple process for the millions of visitors under the Visa Waiver Program; read out the article to find out how.

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IMMIGRATION ARTICLE XML

## Can One Get Married On a Tourist Visa?

“Can one get married on a tourist visa?” is a million-dollar question as it disturbs many people especially those who have marriage plans in the US but have no time to file for K-1 Fiancé visa and are certainly left with the only option of coming to the US on a tourist visa and getting married. Though, there is nowhere written in the US immigration laws that one cannot get married on a tourist visa however, the USCIS has very strict rules for those who come to the US on tourist visa with the sole intention of getting married. In this article, we will discuss all the pros and cons of getting married to a US citizen on a tourist visa.

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▶ [Visa Bulletin](#)

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## DISCUSSION CORNER

[J1 visa+ DWI...](#)

By Darock

[EB3-Received EAD/I-140- pending I485..](#)

[Now marrying US citizen](#)

By Chopsie

[Obtaining U.S. citizenship/residency](#)

By Stanley Chubbs

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## QUESTIONS AND ANSWERS

1. **My wife got a job offer from an American University which she has accepted. She intends to take our two children of 5 and 11 years with her. For the kids would it be difficult. At the same time we are in a divorce process. Do the immigration regulations require my approval for the transfer of the children to the US and does the visa application form for the children require my signature or can my wife act without my consent.**

Under US law, a child under the age of 18 is considered a minor, therefore in order for that child to be considered for visa application, at least one parent must sign the application for them.

There is no requirement that both parents have to sign a child's visa application or consent to the child being given a visa, therefore one parent can legally obtain a visa for a minor child without the consent of another.

If it is your wish, not to have the children accompany your wife, assuming the respective visas are issued, it would be best to contact the embassy ahead of time to express your view and perhaps they may make a decision based on the best interest of the children.

2. **What form of corporation (Inc. or LLC or Professional LLC) should I form? Is there any waiting period after forming corporation? Does USCIS look closely at L-1s? My main contract is with firm of Accountants that submitted H1B app. In June '06 (not on time therefore rejected) – will this affect the L1 app.? Will a letter from ACCA stating that Irish firm has been authorized to provide Audit/Accountancy services for past 11 years suffice for USCIS?**

### 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](#)

It appears that an [L-1](#) Visa or an [E-2](#) Visa are the options available for you to enter in US. For an L-1 Visa you must have worked with a company outside US as a person with specialized knowledge, or as an executive or manager for at least 1 year. The L-1 visa is an intra-company transferee visa which allows you to be transferred to a US branch in the same position. For setting up a new office in US, we suggest you have a detailed business plan with required qualifications to support an L-1 visa. The USCIS will mainly be looking at your business plan for your new office, the kind of operations you will be performing, how many employees you have hired or will hire, for your new entity, and the generation of profits and significant growth in your US business. One of the common reasons of not getting an extension on your L-1 visa after the first year is a lack of significant growth in your US business, hiring of employees and the L-1 employee performing the day to day operations and not actually holding a managerial position (giving directions, supervision and control of the US business).

Since you are a citizen of a country that the US has a treaty with we would suggest that an E-2 treaty investor visa as another available option. The E-2 visa is available for the residents of a country with whom the US has a have an investor's treaty. To qualify for E-2 visa you have to prove that you have made a substantial capital investment in your US business and showed your business projections and plans. You should also own at least 50% of your business. (the rest of the 50% capital investment can come from your business partners). As you have plans of investing \$150,000 in your US business, the E-2 visa looks promising in your case. With an E-2 visa you need not maintain your foreign business running simultaneously once you open up the US business, which is not the case with an L-1. The initial E-2 visa is generally issued for 2 years and can be extended further. The E-2 visa is a multiple entry visa that gives privilege to travel outside US. The E-2 visa package needs to be filed with your home country US consulate.

[More Q&A](#)

## SUCCESS STORIES

*"We could never of realized how complex and complicated obtaining proper immigration status could be! Everybody at VisaPro treated our case as if it was their own, and we felt like we got professional and personal treatment, without the ridiculous price tag of the "other Visa companies."*

*Two happily married years later we still are thankful that we hired VisaPro for our [[Green Card](#)] case. Some of our friends who attempted the Visa process on their own have been hurt deeply because they filled out forms incorrectly and have had one spouse or the other forced out of their home country for over a year. Money is tight in today's world, but what better way to invest your money than your families future and happiness with proper documentation in the USA.*

*Don't take risk your families happiness or well being, hire Visa Pro!*

**CHRIS AND SARA MCCAMY**  
United States

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