

## FROM THE EDITOR'S DESK

*Hello and welcome to the October 2012 Immigration Newsletter!*

As we approach November, all eyes are on the 2012 U.S. presidential election. Election Day is November 6th which means that we will know who the next President will be before our next newsletter is released. We wish all the candidates the very best of luck!

The sometimes all-consuming focus on the 2012 presidential elections did not mean that October lacked its share of action in the field of U.S. Immigration. In welcome news for Taiwanese passport holders, Secretary of Homeland Security, Janet Napolitano, has announced the designation of Taiwan into the Visa Waiver Program (VWP) as of November 1, 2012. This, of course, will permit eligible Taiwanese passport holders to travel to the U.S. without visas under VWP for up to 90 days for business or tourism. However, like other VWP travelers, they will be required to apply for advanced authorization through the Electronic System for Travel Authorization (ESTA).

First-time visa applicants in India are continuing to familiarize themselves with the new two-step process of obtaining a visa. Effective September 26, 2012, all first-time visa applicants in India must 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 has also introduced a new website, available in English and Hindi, for scheduling and coordinating visa interviews - <http://www.ustraveldocs.com/in>. The website will also accept visa fee payment and allow for appointment rescheduling. It is important to note that while these changes are intended to streamline the visa issuance process and free-up consular resources, there are no changes in the adjudication standards. Applicants

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must still meet the requirements for the visa class that they are applying for, and the visa application fees remain the same.

In other consular news, a recently issued Department of State (DOS) cable has reaffirmed that those obtaining a "B-1 in lieu of H" visa should have the same annotated in their passport by the consular officer. The cable also states that that the same is under review in an interagency process. The cable, which provides guidance and advice to consular officers, mentions that to qualify for the visa, the employee shall customarily be employed by a foreign firm, the employing entity must pay the employee's salary and the source of employee's salary must be abroad. The remuneration for services performed in the U.S. must continue to be provided by the business entity located abroad. The "B-1 in lieu of H" classification has often been the subject of heightened scrutiny and much confusion and it is hoped that DOS's recent affirmation of the classification's usefulness would help suitable applicants in securing the visa.

The November 2012 U.S. Department of State Visa Bulletin indicates that the [EB-2](#) priority date for all countries except mainland China and India will return to being "Current" next month. While the EB-2 priority date advanced marginally from 07/15/07 to 09/01/07 for mainland China, it remained at 09/01/04 for India. The [EB-3](#) priority dates advanced marginally for all countries while [EB-1](#), [EB-4](#) and [EB-5](#) continued to remain current for all countries.

### Other Developments in Immigration Law:

#### [President Obama signs Law to Extend EB-5 Regional Center Program and other Immigration Programs](#)

As anticipated, on September 28, 2012 President Obama signed legislation (S. 3245 Act) 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. The Act was introduced by Sen. Leahy, and was passed by the Senate on August 2, 2012, and by the House of Representatives on September 13, 2012. The Law provides for the extension of the above programs until September 30, 2015.

#### [USCIS Announces New Filing Option for Canadian TN Nonimmigrants](#)

### YOUR OPINION

**Do you think that the new filing option announced by USCIS on behalf of Canadian [TN](#) nonimmigrants offers significant benefit to Canadian TN applicants?**

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

[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 November 2012.

*I am a Citizen of Spain and currently reside there. I have an [H-1B](#) visa from a previous employer that is still valid. I now have a job offer from a US company in the US. Can I travel to the US on my earlier H-1B visa?*

[Submit Your Answer](#)

USCIS has announced that starting October 1, 2012, it will begin accepting the Form I-129, Petition for Nonimmigrant Worker, filed on behalf of Canadian Citizens who are outside the United States and seeking classification as a TN nonimmigrant. Canadian Citizens will continue to have the option of applying directly to U.S. Customs and Border Protection (CBP) for [TN](#) classification in conjunction with an application for TN admission to the United States.

## Immigration Articles and Other Fun Stuff

Our 'Featured Video' for this month titled, "[How Do I Get a U.S. Work Visa](#)" showcases the most appropriate work visas for some common positions in the U.S. to help you ascertain the most suitable U.S. work visa for you. 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 "[The P-1B Visa for Internationally Recognized Entertainment Groups: An Overview](#)" in which we present an overview of the P-1B visa requirements and the P-1B visa process for entertainment groups, along with a few important features of the P-1 visa generally.

Every month we introduce a new and interesting question for our opinion poll. Last month's poll results indicate that a majority of respondents (**75%**) welcome the new visa processing system introduced by Mission India. 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 **Manya** for winning last month's Immigration Quiz. While we received more than one correct response to the quiz question, **Manya** 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](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!**

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### Winner of the Immigration Quiz - October 2012:

Manya

#### The Question:

I am currently in the U.S. in [K-3](#) status. I filed for my [Adjustment of Status](#) after coming to the U.S. but my sponsor was unable to meet the Affidavit of Support requirement. Can I change status from K-3 to [F-1](#) or [H-1B](#) now?

#### The Winning Response:

No, you cannot change your status from K-3 to any other nonimmigrant status. [Ed. Note - While in general if you are admitted as a nonimmigrant, you may be able to apply to change to another nonimmigrant status, a change of status is not available to all nonimmigrant categories. Specifically, K-3 or K-4 nonimmigrant visa holders cannot change status in the United States to another nonimmigrant visa category.]

Christine

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

## RECENT IMMIGRATION EVENTS



VisaPro Attorney  
Mr. Thomas Joy at  
NOVA SHRM Seminar



VisaPro Team at  
NOVA SHRM Seminar



NOVA SHRM  
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## 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.

## FEATURED VIDEO

**How Do I Get a US Work Visa?**



There are many types of US work visas, each with specific requirements based on the position, employer, education, etc. Find out the most appropriate American work visa for some of the common positions: Chefs and Cooks, Nurses, Software Engineers, Translators, Designers, Fashion Models, Athletes, Entertainers, Accountants, Architects, Chemists, Economists, Coaches, Ski Instructors, Lawyers, Teachers, Professors, Scientists.

[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 1st half of fiscal year 2013. As of October 19, 2012, USCIS has approved approximately 5,314 H2B beneficiaries for the 1st half of FY 2013.

### [USCIS announces launching of the Spanish-language I-9 Central on its website](#)

USCIS has announced the launching of a Spanish-language version of I-9 Central on the USCIS website (<http://www.uscis.gov/I-9Central/Espanol>). I-9 Central is the USCIS online resource center for employers designed to provide information and assistance related to the Form I-9, Employee Eligibility Verification. U.S. employers must, under federal law, verify the identity and employment authorization for every worker hired, regardless of the employee's immigration status. To comply with the law, employers must complete and retain Form I-9.

## The P-1B Visa for Internationally Recognized Entertainment Groups: An Overview

The P-1 visa classification applies to, along with internationally recognized athletes, foreign national entertainers coming to the U.S. temporarily to perform as a member of an entertainment group that has been recognized internationally as outstanding in the discipline for a sustained and substantial period of time. It is also applicable to Essential Support Personnel, who are an integral part of the performance of a P-1 entertainer and who performs support services which cannot be readily performed by a U.S. worker. The P-1B visa classification is restricted to members of internationally recognized entertainment groups only, and hence, individual entertainers, not performing as part of a group, are not eligible for the P-1B visa classification. For the benefit of our readers, we present in this article an introduction to the P1B visa for entertainment groups and an overview of the P1B visa requirements and process for entertainment groups, along with a few important features of the P-1B visa.

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## QUESTIONS AND ANSWERS

**Q1. I am currently in the US on an [L-1B](#) visa. I will be completing 5 years on L-1B in September 2014. My company is planning to initiate a Green Card process for me under [EB-3](#). If I do not get my Green Card before September 2014, is there a way for me to continue working in the US on L-1B status?**

**Ans.** While in L-1B status, you are limited to a maximum stay of 5 years. You would only be allowed to recapture any period of time that you spent outside the U.S. during the 5 year period. If you would like to remain in the U.S. and continue working while you are waiting out the long process for the Green Card, you have to find an alternate temporary working visa that buys you the necessary extra time. The most appropriate nonimmigrant category may be the [H-1B](#). The H-1B has a maximum stay of 6 years but, under a certain set of conditions, if you are in the midst of the Green Card, you may be able to extend the H-1B beyond the maximum 6 years - either 1 year at a time or 3 years at a time, until you are eligible to apply for [Adjustment of Status](#). If you qualify for the H-1B visa, your employer should consider applying for a change of status for you from L-1B to H-1B to enable you continue working in the U.S. Please consult with an immigration attorney to review your situation and discuss how you can accomplish your goal of continuing to work in the U.S. until you get your Green Card under the EB-3 category.

**Q2. I am from Nigeria and I am interested in making an investment under an [EB-5](#) Regional Center program to move and settle down in the US. Can you please let me know how I can do that?**

**Ans.** If you wish to obtain a Green Card by investing in an existing project under the EB-5 Regional Center Program, you need to make an investment of at least [\\$500,000](#). If you wish to create your own company, you need to show an investment of at least [\\$1 Million](#), and you need to create 10 jobs in the US. The investment you make needs to be at risk. There are close to 200 EB-5 projects that have been authorized in the US. Some projects involve government entities, some do not. You need to investigate and do your own due-diligence to determine if a particular project is a good investment for you or not. You may be able to come to the US on a [B-1](#) visa to visit the projects, meet with the managers and executives of the project to find out about the project, and make an assessment of what is good for you, what is risky and what is not risky. Each EB-5 project generally will have its own immigration lawyer. Once you have made your decision and wish to proceed with your investment, they will help you navigate with the EB-5 process.

### **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 professional in VisaPro helped me for my [TN Canada](#) extension successfully.*

*VisaPro checked my documents and helped me making them complete. All the documents were sent through email [online system]. It was easy and fast. VisaPro prepared my case accurately and quickly forwarded them to USCIS for further approval. In the few weeks of waiting time, I could completely concentrate to my work for my employer in US. Whenever I called or emailed to [VisaPro team], I could always get the latest update. If you prefer peace of mind and on-time services, VisaPro is definitely a good choice."*

*Warm regards,*

***Chengqi Liu, Electrical Engineer***  
***[Northwest Contract Services](#)***

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