

FROM THE EDITOR'S DESK

Hello and welcome to the September 2012 Immigration Newsletter!

As the last month of the 2012 Fiscal Year winds down, we take this time to remember U.S. Ambassador to Libya Christopher J. Stephens, Foreign Service Information Management Officer Sean Smith as well as Glen Doherty and Tyrone Woods. On a day when Americans all over the world were solemnly marking the 11th anniversary of the 9-11 attacks, these brave individuals were killed in an attack on the U.S. Consulate at Benghazi, Libya. We join the rest of the world in offering our condolences to the families of the victims. U.S. Consulates around the world were targeted, and embassy staff were exposed to grave risks. Protests and security breaches have forced suspension of work at many of these Consulates. In addition to hundreds of innocent lives being endangered, the Consulate closings have also resulted in delays in visa processing which affects not only visa applicants but also family members and businesses in the U.S. We hope that normalcy is restored soon, and that all Consulates will once again become safe and secure for all embassy staff, and resume helping visa applicants from all over the world.

In other news, on the legislative front, the 'STEM Jobs Act of 2012', a bill introduced by Representative Smith of Texas, was voted down by the House of Representatives on September 20, 2012. The Bill would have created new visa categories for foreign national students with advanced degrees in the fields of Science, Technology, Engineering and Math (STEM). The sticking point for many of the opponents of the bill was the elimination of the Diversity Visa Program (Green Card Lottery Program) so that there would be no net gain of immigrant visas issues per year. There are, however, a few other bills still being considered which also proposes the creation of additional immigrant visas for similarly placed foreign national STEM graduates with Advanced Degrees. Considering that the [EB-2](#) priority

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dates for India and China are backed up to September 2004 and July 2007 respectively, it is hoped that Congress will vote favorably on any one of them.

In a notable travel update, U.S. Customs and Border Protection (USCBP) has confirmed that it is experiencing delays in processing foreign visitors' travel information into the I-94 database. This has been deemed the cause for an increasing number of non-confirmations of work authorizations for employers using the E-Verify system. USCBP has also informed stakeholders that it is exploring automating the Form I-94 Arrival/Departure Record to allow for the collection of arrival/departure information electronically and is coordinating with other agency stakeholders and considering rulemaking. The CBP will continue to provide updates regarding the Form I-94 process and any changes that may be implemented by CBP. We are monitoring the developments in this regard and will in turn update our readers as and when we receive further information from CBP in this regard.

The DOS announced that the 2014 Diversity Visa Program (DV-2014) will officially open for registration at noon, Eastern Daylight Time (EDT) on October 2, 2012, and will close at noon, EDT, on November 3, 2012. Applicants must submit entries electronically during this registration period using the electronic DV entry form (E-DV). An online process to notify entrants of their selection will be implemented and beginning May 1, 2013, DV-2014 entrants will be able to check online to see if their entry was selected. While natives of Guatemala will be eligible to enter the program this year, natives of Bangladesh, Brazil, Canada, China (mainland-born), Colombia, Dominican Republic, Ecuador, El Salvador, Haiti, India, Jamaica, Mexico, Pakistan, Peru, Philippines, South Korea, United Kingdom (except Northern Ireland) and its dependent territories, and Vietnam remain ineligible to apply. The DOS also warns all applicants to be aware of SCAMS across the internet preying on individuals eager to register for the DV-Lottery program.

On the Employment Based Green Cards front, in the recently published U.S. Department of State Visa Bulletin for October 2012, the EB-2 priority dates advanced to 01 January, 2012 from 01 January, 2009 in September 2012 Visa Bulletin in respect of all countries other than India and mainland China. The EB-2 priority date for India and mainland China stand at 09/01/04 and 07/15/07 respectively. Meanwhile, the EB-3 priority dates advanced marginally for all countries except China in EB-3 Other Workers category and Philippines in both EB-3 Professionals and Skilled Workers, and Other Workers category.

YOUR OPINION

Do you welcome the new visa processing system introduced by Mission India that simplifies fee payment and appointment scheduling, but requires some applicants to schedule two appointments.

- 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 October 2012.

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?

[Submit Your Answer](#)

EXCLUSIVE PREVIEW

VisaPro Team travels the world educating foreign companies and entrepreneurs about doing business in the U.S.

We are happy to share with you that our next stop is India. VisaPro Team is presenting an inspiring full-day workshop Doing Business in the U.S. - Successful Market Entry, Incorporation, Immigration and Tax Strategies at 6 major cities in India [New Delhi, Mumbai, Pune, Hyderabad, Bangalore and Chennai]. Our experts and attorneys share their knowledge about doing business in the United States - the legal requirements, challenges and opportunities, failures and successes, plus insights and practical advice about building lasting businesses. Key topics in the workshop include:

- Incorporation, Banking and Sales Strategies
- Successfully Preparing & Filing [B-1](#), [H-1B](#), [L-1](#), [O-1](#) and Green Cards
- Employment and Immigration Compliance
- Global Mobility and Staffing Challenges
- How to Avoid Costly Mistakes and Receive More Immigration Approvals

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

Other Developments in Immigration Law:

[**U.S. Embassy-India announces new system for visa processing**](#)

The United States Embassy in India has announced that it is introducing a new visa processing system for the Embassy and all the consulates (<http://www.ustraveldocs.com/in/>) aimed at simplifying fee payment and appointment scheduling. The website contains information about nonimmigrant and immigrant visas, as well as information about payment of fees and appointment scheduling. Applicants for nonimmigrant visas will be also be able to schedule their appointments by calling the call center designated by the Embassy or Consulate.

[**3 Year Multiple-Entry Visas to become the standard terms for Russians visiting U.S.**](#)

The U.S. Embassy in Moscow has announced that starting

Immigration Question?

Consult Our Experienced Attorneys

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Winner of the Immigration Quiz - August 2012:

Jayanthi

The Question:

I have been in the U.S. in L-1B status for the past one year. I came on an L-1 Blanket and not through the regular [L-1](#) petition process. I have now received a job offer from another company. Can I change jobs and take up the new employment without having to go outside the U.S.?

The Winning Response:

Yes you can change Job by shifting your L1 visa to H1B. The new employer should file you an H1b. You cannot shift your job with same L-1 Visa. (sic.) [Ed. Note - One can change status within U.S. from L-1 to another work visa classification regardless of whether he or she came in through a regular L-1 petition or a Blanket L petition. If you qualify for an H-1B, the new employer can petition an [H-1B](#) for you. But you cannot take up employment with the new employer till the H-1B

September 9, 2012, Russian and American travelers for business or tourism will be eligible to receive visas valid for multiple entries during a period of 36 months. Three-year, multiple-entry visas will become the standard, default term for U.S. citizens visiting Russia and Russian citizens visiting the United States and no formal invitation will be required to apply for a business or tourism visa. Further, on September 9, the \$100 visa issuance or visa reciprocity fee for U.S. visas for business or tourism will fall to \$20. However, the \$160 application fee will still apply, and validity and fees for other visa types will not change.

Immigration Articles and Other Fun Stuff

Our 'Featured Video' for this month titled, "[H1B Portability: How Can You Change Employers Freely?](#)" showcases all the do's and don'ts of changing employers freely using H-1B portability provisions. 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 O-1 Extraordinary Ability Visa: An Overview](#)" in which we present an overview of the O-1 visa requirements and the O-1 visa process, along with a few important features of the O-1 visa.

Every month we introduce a new and interesting question for our opinion poll. Last month's poll results indicate that a majority of respondents (**85%**) welcome the Administration's decision to consider granting Deferred Action for certain qualified childhood arrivals. 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 **Jayanthi** for winning last month's Immigration Quiz. **Jayanthi** 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

petition is approved with the change of status].

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

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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.

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

H1B Portability: How Can You Change Employers Freely?

TODAY'S TOPIC :
H1B Portability: How Can You Change Employers Freely?



VisaPro ||||
Tel: 202-787-1944
Karen@VisaPro.com
www.VisaPro.com

0:00 / 7:46 YouTube

If you are in the US on an H1B visa, and you wish to change employers, it is easy. The ability bestowed on the H1B worker to start working as soon as the new employer files the H1B transfer petition, without having to wait until the new h1b petition is approved, is known as the "H1B portability". Learn all the do's and don'ts of changing employers freely using H-1B portability provisions.

[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 2nd half of fiscal year 2012 employment and the 1st half of fiscal year 2013 employment. As of September 21, 2012, USCIS has approved approximately, 28,114 H2B beneficiaries for the 2nd half of FY 2012 and 4,132 H2B beneficiaries for the 1st half of FY 2013.

[Extension of TPS for Haiti](#)

USCIS has announced that Secretary of Homeland Security Janet Napolitano has extended Haiti's Temporary Protected Status ([TPS](#)) and that the Department of Homeland Security (DHS) will publish a notice in the Federal Register announcing this decision next week. USCIS has also announced that the 60-day re-registration period for current Haiti TPS beneficiaries will begin on the day the Federal Register notice is published, and individuals who have not continuously resided in the US since January 12, 2011 will not be eligible.

IN FOCUS



The O-1 Extraordinary Ability Visa: An Overview

The O-1 visa classification is available only to foreign nationals with Extraordinary Ability in the arts, sciences, education, business, or athletics, and, foreign nationals with Extraordinary Achievement in motion picture or television industry. Foreign nationals with extraordinary ability may be admitted into the U.S. on an O-1 visa classification for a period of up to 3 years initially, and their stay may be extended in increments of up to one year, with no limit on number of such extensions. The spouse and unmarried minor children can stay in the U.S. in O-3 status with the O-1 foreign national and there are no travel restrictions for those on the O-1 or O-3 visa classifications. While the O-1 visa classification offers qualified foreign nationals various advantages and benefits, it is also one of the most complex among all U.S. nonimmigrant work visa classifications. The eligibility requirements prescribed for an O-1 visa lay down very high standards for qualification, and the standard of proof needed to establish ability is very stringent. For the benefit of our readers, we present in this article an introduction to the O-1 visa and an overview of the O-1 visa requirements and process along with a few important features of the O-1 visa.

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

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QUESTIONS AND ANSWERS

Q1. I am in the U.S. on an [H-1B](#) for the last 4 years and my employer has filed an [EB-3](#) case for me. I have now got a job offer from a new employer and he is ready to file an [EB-2](#) case for me. If he files an EB-2 now, will I be able to continue to stay in the U.S. beyond my 6th year on H-1B?

Ans. In order to stay in the U.S. and get extensions beyond the 6th year on your H-1B, you must have either a [labor certification](#) or [I-140](#) that was filed more than one year before the expiration of the H-1B or alternatively, you have to have an I-140 that has been approved wherein your priority date is retrogressed. If you have a labor certification or I-140 that was filed one year before the expiration of the H-1B, you are eligible for a one year extension. If you have an approved I-140 and your priority date is retrogressed, then you can get 3 year extensions. If you leave the employer and he/she withdraws or cancels the labor certification or withdraws or revokes the I-140, you will not be able to extend the H-1B beyond the sixth year. You will need a new labor certification filed by the end of your fifth year on H-1B. As you have completed 4 years on your H-1B, you are going to have to get that labor certification on file within one year, or before you complete 5 years on your H-1B.

Q2. I am an Australian Citizen. I recently got an [E-1](#) visa to work in the US subsidiary of our Australian company. My wife, however, is a citizen of New Zealand and not Australia. Will she be able come to the U.S. with me?

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](#)

Ans. Yes, your spouse can accompany you to the U.S. on an [E-1](#) dependent visa and may remain in the U.S. as long as you maintain your E-1 status. Your spouse's nationality or country of citizenship is not relevant. She can seek E-1 classification as a dependent and if approved, she will be granted the same period of stay as you. Once in the U.S., she may also seek employment after applying for, and obtaining an Employment Authorization Document ([EAD](#)). While you can work only for your E-1 employer, there will be no such specific restriction on her, and she can take up employment with any employer.

[More Q&A](#)

SUCCESS STORIES

"I want to thank you for the outstanding work you did for us. Since applying for the K-1 VISA sometimes confusing INS process was made easy for us. And a special thanks for always taking the time to talk to me and also answer my e-mails.

Now that my fiance' is here from Brazil, thanks to Visa Pro, we can now concentrate on finalizing the work necessary to obtain her permanent status

Thanks again for everything. I am recommending you to my friends who have fiances' from foreign countries."

Sincerely,

K. Sondeno
United States

[More Success Stories](#)

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