

ALERTS

Immigration Law Alert - Department Of State Creates Separate Categories For Visa Cut-Off Dates

September 11, 2015

Starting with the October 2015 Visa Bulletin, the U.S. Department of State and the U.S. Citizenship and Immigration Services (USCIS) have announced that certain individuals in the permanent residence (green card) process will be able to file the last step of the process, the application for adjustment of status, form I-485, even if their priority date is not current. The impact is significant particularly for Chinese and Indian nationals who have faced significant backlogs, as much as 10 years in some cases, before becoming eligible to file the I-485, adjustment of status, petition.

What all this means is that although applicants can file and pay the filing fees years before the priority date is expected to become current, adjustment of status petitions will not be eligible for adjudication (final action) until the original priority date listed on the approval notice for the I-140 Immigration Petition becomes available. There will still be a long wait for the green card, but applicants will receive the benefits of employment authorization and adjustment portability.

The employment-based categories most impacted by the October Visa Bulletin are:

- EB-2 India: Final Action Date = 5/1/05; Filing Date = 7/1/11
- EB-3 Philippines: Final Action Date = 1/1/07; Filing Date = 1/1/15
- EB-2 China: Final Action Date = 1/1/12; Filing Date = 5/1/14
- EB-3 China: Final Action Date = 10/15/11; Filing Date = 10/1/13

Additional guidance will be forthcoming after a briefing session by USCIS next week. Any affected employees should consider beginning to prepare their documents. This is a developing situation with a number of issues to be resolved.

For more information, please contact the Barnes & Thornburg attorney with whom you work or Mariana Richmond at 317-231-7476 or mariana.richmond@btlaw.com or Mercedes Badia-Tavas at 312-214-8313 or MBadiaTavas@btlaw.com.

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