



ALERTS

USCIS Issues Final Rule For Fee Increases

January 31, 2024

Highlights

U.S. Citizenship and Immigration Services recently announced that new filing fees will go into effect on April 1, 2024

The Department of Homeland Security is implementing a new Asylum Program surcharge for employers who file Form I-129, Petition for a Nonimmigrant Worker, or Form I-140, Immigrant Petition for Alien Worker

H-1B cap registration will increase from \$10 to \$215, though this fee will not be implemented until the FY 2026 cap season, beginning in March 2025

On Jan. 31, the U.S. Citizenship and Immigration Services (USCIS) published a final rule to adjust filing fee increases for certain nonimmigrant and immigrant petitions – the first time since 2016 that fees have changed.

A year ago, the USCIS published a notice of proposed rulemaking that proposed an increase in immigration filing fees. The Department of Homeland Security (DHS) cited its inability to cover its current costs as the primary reason for the fee increases. The Immigration and Nationality Act provides rulemaking authority to DHS to set fees at a level to cover

RELATED PEOPLE



Mandira Sethi

Of Counsel
Atlanta

P 404-264-4011
F 404-264-4033
mandira.sethi@btlaw.com



Sarah J. Hawk

Partner
Atlanta

P 404-264-4030
F 404-264-4033
Sarah.Hawk@btlaw.com



Tejas Shah

Partner
Chicago

P 312-214-5619
F 312-759-5646
tejas.shah@btlaw.com

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expenses such as agency operations, humanitarian programs, federally mandated pay raises, staffing, and other programmatic costs. Additionally, the final rule provides fee exemptions for certain humanitarian categories and makes changes to other immigration benefit request requirements.

The new fees under the final rule will go into effect on April 1, 2024, as will updated editions of various USCIS applications and forms.

These filing fee increases are quite considerable. Under the final rule, employers should anticipate paying 70 percent more for the H-1B regular filing fee (increased from \$460 to \$780); 201 percent more for the L-1 regular filing fee (jumped from \$460 to \$1,385); 129 percent more for the O-1 regular filing fee (increased from \$460 to \$1,055); and 121 percent more for E and TN regular filing fees (increased from \$460 to \$1,015). For I-140 petitions, the regular filing fee increase is a more modest 2 percent (from \$700 to \$715).

Also, employers should expect longer premium processing timelines, as the USCIS has updated the adjudication process from 15 calendar days to 15 business days. The agency has already announced effective Feb. 26, 2024, the increase of premium processing fees from \$2,500 to \$2,805 for the common cases I-129/I-140.

One notable distinction is that the fees will vary depending on the filing method (online versus paper). This reflects the agency’s long-term move to digitize its systems and encourage users to file applications online.

Additionally, the DHS is implementing a new Asylum Program surcharge of \$600 to be paid by employers who file either a Form I–129, Petition for a Nonimmigrant Worker, or Form I-140, Immigrant Petition for Alien Worker. Small businesses – businesses with 25 or fewer full-time equivalent employees – will pay a \$300 Asylum Program surcharge. Nonprofits will not be required to pay a surcharge.

With this final rule, the H-1B cap registration will increase from \$10 to \$215, though this fee will not be implemented until the FY 2026 cap season, beginning in March 2025.

The DHS has also stated that it will be eliminating fee bundling when status adjustment (I-485), employment authorization (I-765), and advance parole (I-131) applications are concurrently filed; they now requiring separate fees for each ancillary application.

Below is a chart of common employment-based petitions and the fee increases:

Immigration Process	Current Fee	Final Fee	Filing Fee Increase
H-1B Pre-Registration Fee	\$10	\$215	2,050%
I-129 H Petition	\$460	\$780	70%
I-129 L Petition	\$460	\$1,385	201%
I-129 O Petition	\$460	\$1,055	129%

I-29 E and TN Petition	\$460	\$1,015	121%
I-130 Petition (online filing)	\$535	\$625	17%
I-130 Petition (paper filing)	\$535	\$675	26%
I-140 Petition	\$700	\$715	2%
I-485 Petition	\$1,225	\$1,540	26%
I-485 Petition (children under the age of 14)	\$750	\$950	27%
I-765 Petition (online filing)	\$410	\$470	15%
I-765 Petition (paper filing)	\$410	\$520	15%
I-539 Petition (online filing)	\$370	\$420	14%
I-539 Petition (paper filing)	\$370	\$470	27%
N-400 Petition (online filing)	\$640	\$710	11%
N-400 Petition (paper filing)	\$640	\$760	19%
I-751 Petition	\$680 (with biometrics)	\$750	10%
I-824 Petition	\$465	\$590	27%

For more information, please contact the Barnes & Thornburg attorney with whom you work or Mandira Sethi at 404-264-4011 or mandira.sethi@btlaw.com, Sarah Hawk at 404-264-4030 or sarah.hawk@btlaw.com, or Tejas Shah at 312-214-5619 or tejas.shah@btlaw.com.

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