

Immigration Alert: USCIS Increases TN Period of Stay from One to Three Years

10/16/2008

U.S. Citizenship and Immigration Services (USCIS) has announced that effective October 16, 2008, TN nonimmigrants will be eligible for a three-year period of admission into the United States. This final rule changes the initial period of stay for TN nonimmigrants from one year to three, a huge boost to employers and foreign nationals alike. The increase applies both to initial admissions into the United States in TN status and to extensions of stay. Spouses and children under 21 are entitled to dependent "TD" classification and may be admitted into the United States for the same period of time as the principal TN, and will also benefit from this new rule.

The TN nonimmigrant classification is a visa status under the North American Free Trade Agreement (NAFTA) and is available to Mexican and Canadian citizens who possess at least a bachelor's degree or the appropriate professional credentials in qualified occupations specified in NAFTA. Despite these limitations, the TN visa category is a very attractive alternative to the H-1B visa category, when applicable, because, unlike H-1B visas, there is no annual quota for TN visas. This new rule eliminates the one-year validity limitation previously associated with TN visas, thereby making it a much more attractive and cost-effective visa option for U.S. employers. Accordingly, the rule change is a most welcome development.

USCIS has not yet indicated whether applicants with pending TN petitions will be grandfathered for a three-year validity period. We expect USCIS to issue a clarification about this shortly, and we will update you as soon as new information is available.

If you would like more information on any immigration matter, please contact your immigration attorney at Mintz Levin or visit www.mintz.com.

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