

Immigration Advisory: Spring 2008 Immigration Updates

3/13/2008

Nonimmigrant Visa Stamp Application Fees Increased on January 1, 2008

As our clients begin to plan summer travel and coordinate visa stamp applications at various U.S. consulates globally, we wanted to remind everyone that, effective January 1, 2008, the visa application fee charged at U.S. consulates worldwide increased from \$100 USD to \$131 USD. The increase applies to both machine-readable nonimmigrant visa stamps as well as border crossing cards issued to certain applicants in Mexico.

Update on the Petition Information Management System (PIMS)

In addition to increased fees, clients need to remember to plan for delays caused by the Petition Information Management System (PIMS). We first alerted you on November 29, 2007, about the system as it relates to the issuance of nonimmigrant visa stamps at U.S. consulates around the world (see original alert [here](#)). Since the sudden implementation of this new process, we have been receiving feedback from our clients about the rollout of this new system. While the majority of our clients report no additional delays in the processing of visa applications due to PIMS, and the Kentucky Consular Center (KCC) has stated that they are responding to inquiries from consular posts within 48 hours or sooner, we have had scattered reports of additional delays of two to three business days (and in very isolated instances even longer) in the processing of visa applications at some U.S. consulates around the world.

This feedback confirms that specific consulates are not necessarily more prone to PIMS-related delays than others, and that the delays are not consistent in nature. As such, we continue to encourage our clients to allow for these delays when scheduling visa appointments and making travel arrangements. We also ask that anyone experiencing PIMS-specific delays to let our office know the details of the delay so that we can provide effective feedback about the process to the Department of State (DOS) and other stakeholders.

The American Immigration Lawyers Association has asked that DOS establish a mechanism by which visa applicants can notify the KCC of upcoming visa applications to ensure that the petition is in PIMS in advance of the appointment to avoid delays, and as soon as DOS has provided more specific guidance in this regard, we will update our clients accordingly.

Update on Implementation of “No Match” Rules

On September 14, 2007, we published guidance advising our clients of the temporary suspension of the implementation of the new “No Match Letter” regulations (see previous alerts [here](#) and [here](#)). These revised regulations relate to the hiring or continued employment of unauthorized foreign nationals in the United States, and describe the legal obligations of an employer when it receives a “no match” letter from the Social Security Administration (SSA) or receives a letter regarding the immigration status document or employment authorization document from the Department of Homeland Security (DHS) (usually as a result of an I-9 audit). These regulations further describe the affirmative steps an employer must take in order to establish a “safe harbor” from the legal liability that may attach when the employer has “constructive knowledge” that it is employing an unauthorized alien. The regulations were supposed to take effect on September 14, 2007, but were delayed pursuant to a lawsuit questioning their legality filed by the AFL-CIO, the American Civil Liberties Union, and the National Immigration Law Center on August 31, 2007. The U.S. District Court for the Northern District of California has issued a temporary restraining order, and until the restraining order is removed, the SSA will continue to be barred from sending “no match” letters to employers. We will provide an update to this issue as soon as it is resolved.

WHTI: Document Requirements for Land and Sea Entries to the U.S. by Canadian, Mexican, and Other Caribbean Nationals

While travelers entering the United States by air are required to show a valid passport regardless of their country of citizenship, the requirements for citizens of the United States, Mexico, Canada, and Bermuda making land or sea entries to the U.S. have until recently been far less strict, allowing these individuals to simply declare their country of citizenship and show photographic identification to enter the United States. However, effective January 31, 2008, as part of the Western Hemisphere Travel Initiative (WHTI), Customs and Border Protection officers no longer accept oral declarations of citizenship for nationals of these countries. Instead, U.S., Bermudian, and Canadian citizens age 19 and older now need to present a government-issued photo ID, such as a drivers license, *along with* proof of citizenship, such as a birth certificate or naturalization certificate, in order to enter the United States via land or sea. Those U.S., Bermudian, and Canadian citizens who are age 18 and younger are required *only* to present proof of citizenship, such as a birth certificate. Of course, passports and other trusted traveler cards, such as NEXUS, SENTRI, and FAST documents, will continue to be accepted for cross-border land and sea crossing and are therefore the safest way to make these types of land or sea entries. Furthermore, land/sea entries into the United States by Mexican nationals are not impacted since they are already required to carry documentation for border crossings that meets WHTI standards.

To facilitate the frequent travel of U.S. citizens living in border communities, or for those individuals who are required to cross the border by land or sea on a regular basis, the U.S. Department of State has instituted a “U.S. Passport Card” program, designed to create a less expensive and more portable alternative to the traditional passport. While not authorized for use in air travel, the Passport Card will have the same rights and privileges of the passport, will be adjudicated using the same standards, and will have the same validity periods (10 years for an adult, 5 years for a child 15 and younger). In addition, these cards will be fitted with technology allowing the cards to be scanned and land or sea entries documented and stored in a secure government database. The State Department began accepting applications for these U.S. Passport Cards on February 1, 2008, and we encourage anyone who thinks they might benefit from this card and its advantages to learn more by visiting the Department of State’s web site [here](#).

As a reminder, full implementation of the WHTI is scheduled for June 2009, at which time citizens of the United States, Canada, Mexico, and most countries in the Caribbean will be required to have a valid passport for *any* entry into the United States, whether by air, land, or sea. While this won’t occur for another 15 months, it is never too soon to begin planning for the significant change in travel documentation requirements.

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

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