

# **Immigration Alert: Fees and More Fees: Homeland Security Substantially Increases Fees for Certain U.S. Employers & ESTA Travelers**

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- Homeland Security imposing a \$14 fee for a new or renewed ESTA “pre-clearance” application
- New H-1B and L-1 fees apply only to companies which employ over 50 employees in the U.S. if more than half their workforce are H-1B or L-1 visa holders
  - H-1B fee for above-referenced companies increased from \$320 to \$2,320
  - L-1 fee for above-referenced companies increased from \$320 to \$2,570

The Department of Homeland Security recently announced new fees for the electronic system for travel authorization (ESTA), that all nationals of Visa Waiver Program (VWP) countries must utilize, as well as an increase in fees for certain users of H-1B and L-1 visa programs.

## **ESTA Fee**

Effective September 8, 2010, there will be a \$14 fee for a new or renewed ESTA application. This fee, which must be paid by credit or debit card, will be used by U.S. Customs and Border Protection (CBP) to help cover the costs of the program.

ESTA is an automated system that has been in effect since January 12, 2009 to assist in determining eligibility to travel to the United States under the existing VWP, as well as determining whether such travel poses any law enforcement or security risk.

The ESTA program asks applicants to register online at <https://esta.cbp.dhs.gov/> in order to provide biographical data and assess VWP eligibility.

As a reminder, the ESTA program is a “pre-clearance” program covering those travelers seeking to enter the United States using the VWP only. Travelers holding valid travel visas of all types will not be required to register through ESTA.

## **H-1B and L-1 Fees**

On Friday, August 13th, President Obama signed the Emergency Border Security Supplemental Appropriations Act which includes an increase in certain H-1B and L-1 filing fees and fraud prevention and detection fees.

The H-1B fee is increased from \$320 to \$2,320 while the L-1 fee moves from \$320 to \$2,570.

It is critical to note that these increases, while effective immediately apply, **only** to those companies that employ 50 or more workers in the United States *if more than 50% of their workforce is made up of H-1B or L-1 visa holders*. A company that employs fewer than 50 workers is not affected by this change in the law, even if more than 50% are H-1B or L-1 visa holders. Small companies that employ significant percentages of H-1B or L-1 workers must carefully monitor their size, as when they hire their 51st employee, if they meet the threshold percentage, they must pay the higher filing fees when petitioning for H-1B or L-1 workers.

The funds raised will be earmarked toward the hiring of additional CBP officers at Ports of Entry along the southwest border, as well as enhanced communications systems, unmanned drones and new bases of operation.

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*For assistance in this area please contact one of the attorneys listed below or any member of your Mintz Levin client service team.*

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