

Immigration Alert: Significant Permanent Residency Backlog Looming

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The U.S. Department of State has released its July 2009 *Visa Bulletin*, which lists annual visa quotas for certain immigrant visa categories and determines when an applicant may apply for permanent residence. The July *Visa Bulletin* reflects an even greater backlog of visa numbers in employment-based categories, and the Department of State Visa Office has affirmed further retrogression will become a reality in the coming months.

The Visa Office has advised that, based on processing in the first part of the fiscal year, all 140,000 employment-based immigrant visa numbers will be used this fiscal year (ending September 30, 2009). The First Preference category (EB-1) worldwide will remain current this fiscal year. However, the Visa Office has estimated that due to high demand, the EB-1 category for India and China may retrogress and require a cut-off date in August or September 2009.

The July 2009 *Visa Bulletin* reflects that the Second Preference (EB-2) category for China has retrogressed to January 1, 2000, from February 15, 2005. The Visa Office has indicated that the category may become unavailable in August or September 2009. The EB-2 category for India remained at January 1, 2000, but the Visa Office has indicated that the category may also become unavailable in August or September 2009. **Without legislative relief, the backlog for Indian and Chinese applicants in the EB-2 category may reach up to 10 years.**

As of July 1, 2009, all Third Preference (EB-3) and “Other Worker” categories will be *unavailable*, indicating that no applicant in those categories will be eligible to apply for permanent residence. The Visa Office has indicated that the EB-3 category for applicants from India, China and Mexico will remain unavailable for the remainder of the fiscal year, but that it will likely establish the following cut-off dates, as of October 1, 2009:

- China: March 1, 2003;
- India: November 1, 2001; and
- Mexico: March 1, 2003.

As of October 1, 2009, the cut-off date for the EB-3 worldwide category will likely be March 1, 2003.

The increasing backlog of immigrant visa numbers will impact the permanent residence process for your employees, as it will take longer for many employees to conclude the process. Please feel free to contact Mintz Levin’s Immigration Team if you have questions about the backlogs or about how they impact your employees.

View the *Visa Bulletin* [here](#).

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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