JANUARY 3, 2011

Reprieve Granted Until February 20, 2011 to Answer Export Control Questions on Form I-129

On December 1, 2010 we alerted you that the new Form I-129 (the nonimmigrant visa petition form), which went into effect on December 23, 2010, requires Petitioners to answer questions regarding the "deemed export" of controlled technology or technical data to their foreign national employees employed pursuant to the visa petition. Specifically, in Part 6 of the new form, the Petitioner must now answer questions about whether the foreign national to be employed pursuant to the visa petition will be exposed to controlled technology or technical data that requires an export license from the U.S. Department of Commerce (DOC) or the U.S. Department of State (DOS). The Petitioner must indicate either that a license is not required to release the technology or technical data to the foreign employee, or that if a license is indeed required, the Petitioner will prevent the foreign employee from access to such technology or technical data until such time as the Petitioner has received the required license or authorization to release it. For more information about the "deemed export" control requirements, please click here to review our December 1, 2010 alert and here to access the DOC's FAQs on this subject.

In the wake of the new export-control questions on Form I-129, employers nationwide have been scrambling to get up to speed on the "deemed export" laws and requirements and to determine whether any of their employees require an export license. Due to concerns caused by the new questions on Form I-129 in the employer community, and understanding that it takes time for employers to assess the impact of the export control requirements on their businesses, the DOC has announced that employers are not required to complete Part 6 of Form I-129 until February 20, 2011. Until **February 20, 2011**, employers may leave Part 6 of the form blank. The scope of the questions in Part 6 of Form I-129 is quite broad; therefore, it is important that employers carefully review the information in our alert and the DOC's FAQs as soon as possible.

While employers have been granted a reprieve in completing Part 6 of the new Form I-129, it is critical that all employers intending to file H-1B, L-1, or O-1 visa petitions promptly undertake a thorough review of their operations in light of the export control regulations to determine how to (a) answer the questions in Part 6 of the form by the February 20, 2011 deadline, and (b) ensure they are in compliance with the law.

If you have questions about how the export control regulations impact your organization, please contact your Mintz Levin immigration attorney, who will put you in touch with one of our export control experts.

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Click here to view Mintz Levin's Immigration attorneys.

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