

IMMIGRATION INSIDER

Winter 2017



**Kate
McCarroll,
Member**

Kate has extensive experience in employment-related immigration law, including inbound/outbound immigration, Department of Labor/ Department of Homeland Security audits and I-9 compliance training. Kate has also handled matters involving criminal and inadmissibility issues, family-based immigration, and asylum proceedings. [Email Kate.](#)

The Immigration Department at Kerr, Russell & Weber, PLC wishes you a happy and safe holiday season. We look forward to working with you in the New Year.

Implementation of Presidential Proclamation Regarding Travel Restrictions

On September 24, 2017, President Trump issued a third travel ban, after the initial two versions were found unconstitutional by the U.S. courts. This newest "Presidential Proclamation" was also promptly appealed, and a temporary stay issued to prevent the ban from being implemented. On December 4, the U.S. Supreme Court lifted this stay, allowing its provisions to take effect on December 8. The September 24 Presidential Proclamation provides:

- Indefinite suspension of entry of immigrants and some nonimmigrants from Chad, Iran, Libya, North Korea, Syria and Yemen into the United States. (Note: No visas already issued will be revoked).
- Indefinite suspension of entry of immigrants from Somalia.
- Indefinite suspension of entry of certain Venezuelan government officials from entering as nonimmigrants.



**Miroslava
Orduño
Rincón,
Member**

Miroslava has extensive employment-related experience concerning U.S. non-immigrant and immigrant petitions for large international clients. She also processes outbound visitor and work visas, family-based petitions, and naturalization. [Email Miroslava.](#)



**Robert
Anderson,
Of
Counsel**

Robert counsels and represents clients in the full spectrum of immigration legal issues as applied to their workforces and staff, including all aspects of the international movement of personnel for local, national, and international companies. [Email Robert.](#)

- Nationals of Iran are subject to heightened screening.

Because the application of the travel ban's provisions differs among countries and for various U.S. immigration statuses, we urge you to contact Kerr Russell if you or your family members are nationals of one of the affected countries and wish to travel. We note that the courts have not yet reviewed the merits of the travel ban. Therefore, it is possible that this version of the ban will also be found unconstitutional. We will provide updates as necessary.

USCIS Announces End of Deference to Extensions of Nonimmigrant Status

It has long been USCIS policy to review petitions to extend nonimmigrant status with deference if the material circumstances of the application remain the same. In August 2015, USCIS issued a memorandum specifically applying this practice to L-1B petitions. These memos directed that extensions should be approved unless there was an error in the initial approval; there was a material change in circumstances; or, new information was discovered which would render the beneficiary ineligible for the status.

On October 23, 2017, USCIS issued a new memorandum that rescinded the policy of requiring officers to defer to prior determinations in petitions for extension of nonimmigrant status. The memo explains that for each petition, including an extension, the petitioner must provide evidentiary proof of the beneficiary's eligibility for the status sought. Officers are directed to review each petition and all of its supporting documentation to assess whether the petitioner has met its burden of proof and the case warrants approval.

As a result of this policy change, we expect an increase in issuance of Requests for Evidence and further delays in processing times.

Naturalization Application Online Filing

On December 11, the U.S. Citizenship and Immigration Service (USCIS) announced that N-400 applications for naturalization can now be filed online. Using the online application, applicants will see questions and receive alerts specific to the answers they provide. They will also be prompted to upload necessary documents and pay the required filing fees. Once complete, applicants can follow the progress of their application while in process. USCIS also indicated that it will be introducing an interactive tool to allow applicants to determine whether they are eligible for naturalization.

The online application can be accessed at: <https://www.uscis.gov/file-online>.

New H-1B Filings Accepted Beginning April 1

H-1B status is available to foreign nationals who hold at least a U.S. Bachelor Degree (or equivalent) relevant to the field in which he/she will be working, and the offered position must normally require at least a Bachelor Degree. The H-1B petition must be sponsored by an employer and is generally valid for 3 years. H-1B status is employer and position specific, meaning that should an H-1B status holder change employer, position, or work location, an amended H-1B petition will likely need to be filed.

As you may be aware, the U.S. government numerically limits the number of H-1B visas available each year. The government's fiscal year begins October 1, meaning that new H-1B petitions can be filed beginning April 1 for an October 1 start date. If the U.S. Citizenship and Immigration Services (USCIS) receives more H-1B petitions than the number available, it conducts a random lottery and returns the petitions not selected. Once the cap has been reached, H-1B visas are not available until the following fiscal year.

For this fiscal year, the H-1B cap was reached on the first day of filing (April 1, 2018) and a lottery was conducted – new H-1B visas have not been available since that time. New H-1B applications can be filed

again beginning April 1, 2018 for an October 1, 2018 start date.

If your organization has any employees or potential employees for whom you wish to file a new H-1B petition, it is imperative that you contact our office immediately to ensure that your candidate has the best opportunity to obtain H-1B status.



500 Woodward Avenue • Suite 2500
Detroit, Michigan 48226
(313) 961-0200
kerr-russell.com

Learn more about Kerr Russell

Required Disclaimer Under IRS Circular 230: Internal Revenue Service regulations require us to notify the recipient that any U.S. federal tax advice provided in this communication is not intended to be used, and it cannot be used, by the recipient or any other taxpayer for the purpose of avoiding tax penalties that may be imposed upon the recipient or any other taxpayer, or in promoting, marketing or recommending to another party, a partnership or other entity, investment plan, arrangement or other transaction addressed herein. The information contained in this publication has been prepared by Kerr, Russell and Weber, PLC for informational purposes only. It is not legal advice, is not intended to be legal advice, nor does it create an attorney-client relationship with Kerr, Russell and Weber, PLC. You should consult an attorney for advice regarding your individual situation. We invite you to contact us, and we welcome your calls, letters and electronic mail.

Copyright © 2017. All Rights Reserved.