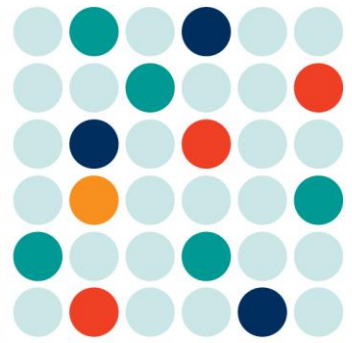


LEGAL UPDATE

November 2016

By: Pryor Cashman's Immigration Group



USCIS IMMIGRATION FILING FEES SET TO INCREASE ON DECEMBER 23, 2016

The U.S. Citizenship and Immigration Services (USCIS) announced that the fees for most immigration applications and petitions will increase effective December 23, 2016. Fees will increase on average by 21% and applications and petitions filed on or after December 23 must include the new fee amounts.

USCIS is almost entirely funded by the fees paid by applicants and petitioners. According to the agency, the fee increase is necessary to cover the full cost of USCIS services, including fraud detection and national security, customer service and case processing, and providing services without charge to refugee and asylum applicants and to other eligible customers. This is the USCIS's first fee increase in six years.

Notable Fee Increases for Employer-Sponsored Petitions and Applications

Notable increases for employment-based petitions and applications include:

- *Form I-129, Petition for a Nonimmigrant Worker*: increase from \$325 to \$460. This form is used for such common employer-sponsored petitions as H-1B petitions, L-1 petitions as well as O-1 petitions and P-1 petitions filed with USCIS.
- *Form I-140, Immigrant Petition for Alien Worker*: increase from \$580 to \$700. This form is used by employers petitioning for a foreign national employee to become a permanent resident of the U.S.
- *Form I-485, Application to Register Permanent Residence or Adjust Status*: increase from \$985 to \$1,140. This form is required of all individuals applying to change their status from a nonimmigrant status to permanent resident status (a "green card"). The additional biometric fee of \$85, required for all adjustment of status applications, will remain the same.

The total cost therefore of an individual Adjustment of Status application will increase from \$1,070 to \$1,225.

- *Form I-539, Application to Extend/Change Nonimmigrant Status*: increase from \$290 to \$370. This form is used when changing to a different nonimmigrant status, or when requesting an extension of status for dependent family members of employer-sponsored nonimmigrants.
- *Form I-765, Application for Employment Authorization*: increase from \$310 to \$410.
- *N-400, Application for Naturalization*: increase from \$595 to \$640. This form is used to apply for U.S. citizenship.
- *USCIS Immigrant Fee*: Increase from \$165 to \$220. This fee is required of individuals who applied for and were granted an immigrant visa abroad. It covers the cost of processing the immigrant visa packet and producing their Permanent Resident Card (i.e., "green card").
- *Form I-90, Application to Replace Permanent Resident Card*: Increase from \$365 to \$455. This application is required to replace a lost or stolen Permanent Resident Card or to renew an expiring one.
- The Premium Processing Service fee of \$1,225 will remain the same. This fee can be paid to expedite the processing of certain employer-sponsored petitions within 15 calendar days.

A full list of the fee increases can be found on the USCIS website: <https://www.uscis.gov/forms/our-fees>

USCIS Updates Rules on Rejecting Petitions With Returned Fee Payments and Incorrect Biometric Fees

Further, the new USCIS rule changes the way the agency will treat a petition or application that is filed with a fee payment (either a check or other financial instrument) that is returned as not payable. The regulations will no longer require USCIS to hold the benefit request or allow applicants to correct payments directly. Instead, all rejected payments will be re-presented to the financial institution a second time, which will allow approximately another 5 days for the payment to clear. USCIS will only re-present the payment once, rather than twice, as was the rule previously.

In addition, USCIS will reject a benefit request if it is received without the correct biometrics service fee. Previously, if a petition or application did not include the correct biometrics fee, USCIS would notify the filer and hold the application until the payment was received.

Employers Should Review Their Immigration Budgets for 2017

Employers budgeting for 2017 should take the increased filing fees into account, as the filing fee updates will affect nearly all employer-sponsored immigrant and nonimmigrant petitions and applications.

In particular, employers preparing to file numerous H-1B petitions in the upcoming H-1B cap season should carefully review the fee increases with their immigration attorney to understand how these changes will impact their 2017 immigration costs.

If you have any questions, please contact the attorney at Pryor Cashman with whom you work.

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