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Legalization and Legal Immigration

Adjustment of Status to Registered Provisional Immigrant Status: Individuals in unlawful status may apply to adjust their status to the legal status of Registered Provisional Immigrant Status.

Eligibility Criteria:

- * Residence in the United States prior to December 31, 2011 and maintenance of continuous physical presence since then.
- * Paid a \$500 penalty fee (except for DREAM Act eligible students), and assessed taxes, per adult applicant in addition to all applicable fees required to pay for the cost of processing the application.

Ineligible if:

- o Convicted of an aggravated felony;
- o Convicted of a felony;
- o Convicted of 3 or more misdemeanors;
- o Convicted of an offense under foreign law;
- o Unlawfully Voted; and
- o Inadmissible for Criminal, National Security, Public Health, or other morality grounds.

* Spouses and children of people in RPI status can be petitioned for as derivatives of the principal applicant (but must be in the United States at the time).

* Immigrants in RPI status can work for any employer and travel outside of the United States

* Individuals outside of the United States who were previously here before December 31, 2011 and were deported for non-criminal reasons can apply to re-enter the United States in RPI status if they are the spouse, of or parent of a child who is, United States citizen or lawful permanent resident; or are a childhood arrival who is eligible for the DREAM Act.

* The Application period will be for 1 year with the possibility of extension by the Secretary for an additional 1 year.

* Individuals with removal orders will be permitted to apply as will aliens currently in removal proceedings.

* RPI status shall last for a 6-year term that is renewable if the immigrant does not commit any acts that would render the alien deportable. Another \$500 penalty fee is applicable at this time.

* The Secretary may collect a processing fee from individuals who register for RPI status in an amount that is sufficient to recover all of the costs of implementing the registration program.

* An individual who has been granted RPI status is not eligible for any Federal means-tested public benefit (as such term is defined in section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613)).

* A noncitizen granted registered provisional immigrant status under this section shall be considered lawfully present in the United States for all purposes, while such noncitizen remains in such status, except that the noncitizen

o is not entitled to the premium assistance tax credit authorized under section 36B of the Internal Revenue Code of 1986; and

o shall be subject to the rules applicable to individuals not lawfully present that are set forth in section 1402(e) of the Patient Protection and Affordable Care Act (42 U.S.C. 18071).

* After 10 years, aliens in RPI status may adjust to Lawful Permanent Resident Status through the same Merit Based System everyone else must use to earn a green card (described below) if the following things have occurred:

- o The alien maintained continuous physical presence
- o They paid all taxes owed during the period that they are in status as an RPI
- o They worked in the United States regularly;
- o And demonstrated knowledge of Civics and English

* All people currently waiting for family and employment green cards as of the date of enactment have had their priority date become current.

o A \$1,000 penalty fee is rendered

* People in DREAM Act Status and the Agricultural Program can get their green cards in 5 years and DREAM Act kids will be eligible for citizenship immediately after they get their green cards.

Legal Immigration Summary

* The bill eliminates the backlog for family and employment-based immigrants (see below discussion of merit-based system).

* Currently, there are four preference categories based on family relationships and 480,000 visas are allocated to family. Under the new system there will be two family preference categories and they will cover unmarried adult children; married adult children who file before age 31, and unmarried adult children of lawful permanent residents. * We are expanding the current V visa to allow individuals with an approved family petition to live in the U.S. and allow certain other family members to visit the U.S. for up to 60 days per year.

- * The bill repeals the availability of immigrant visas for siblings of U.S. citizens once 18 months have elapsed since the date of enactment.
- * The bill amends the definition of “immediate relative” to include a child or spouse of an alien admitted for lawful permanent residence.
- * The bill amends the existing category for married sons and daughters of citizens of the United States to include only sons and daughters who are under 31 years of age.
- * The bill repeals the Diversity Visa Program. Aliens who were or are selected for diversity immigrant visas for fiscal years 2013 or 2014 will be eligible to receive them.
- * On the employment green card categories, the bill exempts the following categories from the annual numerical limits on employment-based immigrants: derivative beneficiaries of employment-based immigrants; aliens of extraordinary ability in the sciences, arts, education, business or athletics; outstanding professors and researchers; multinational executives and managers; doctoral degree holders in any field; and certain physicians..
- * The bill then allocates 40 percent of the worldwide level of employment-based visas to : 1) members of the professions holding advanced degrees or their equivalent whose services are sought in the sciences, arts, professions, or business by an employer in the United States (including certain aliens with foreign medical degrees) and 2) aliens who have earned a master’s degree or higher in a field of science, technology, engineering or mathematics from an accredited U.S. institution of higher education and have an offer of employment in a related field and the qualifying degree was earned in the five years immediately before the petition was filed.
- * The bill increases the percentage of employment visas for skilled workers, professionals, and other professionals to 40 percent, maintains the percentage of employment visas for certain special immigrants to 10 percent and maintains visas for those who foster employment creation to 10 percent.
- * The bill creates a startup visa for foreign entrepreneurs who seek to emigrate to the United States to startup their own companies.
- * **Merit Based Visa:** The merit based visa, created in the fifth year after enactment, awards points to individuals based on their education, employment, length of residence in the US and other considerations. Those individuals with the most points earn the visas. Those who access the merit based pathway to earn their visa are expected to be talented individuals, individuals in our worker programs and individuals with family here. 120,000 visas will be available per year based on merit. The number would increase by 5% per year if demand exceeds supply in any year where unemployment is under 8.5%. There will be a maximum cap of 250,000 visas.
- * Under one component of this merit based system the Secretary will allocate merit-based immigrant visas beginning on October 1, 2014 for employment-based visas that have been pending for three years, family-based petitions that were filed prior to enactment and have been pending for five years, long-term alien workers and other merit based immigrant workers.
- * Long –term alien workers and other merit based immigrant workers includes those who have been lawfully present in the United States for not less than ten years and who are not admitted as a W visa under section 101(a)(15)(W) of the Act.
- * Between fiscal years 2015 and 2021, the Secretary shall allocate a seventh of the total number of those with employment based visas that have been pending on the date of enactment. Petitions for spouses and children of permanent residents who are accorded status under the INA are automatically converted to petitions to accord status as immediate relatives. Between fiscal years 2015 and 2021, the Secretary shall follow a specific formula to allocate visas to those with family based petitions pending on the date of enactment and subject to some restrictions visas should be authorized in the order petitions were filed. In fiscal year 2022, the Secretary of State shall allocate visas to half the number of those that filed family based petitions after the date of enactment and had not had a visa issued by October 2021. In fiscal year 2023, the visas should be allocated to the other half of those that filed family based petitions after the date of enactment and who had not had a visa issued by October 2021. Visas allocated for these family based petitions will be issued based on the order in which petitions were filed.

ADDITIONAL MATERIALS:

To keep our clients and friends informed about current financial and business issues, EB5 immigration investors, E2 treaty Investors, real estate, taxes and consumer issues we recommend that you read the **Consumer Advocate**, a publication of the New American Chamber of Commerce and the African American International Chamber of Commerce. Visit NACC, at www.mynacc.org.

Are you interested in receiving a free consultation on any of the issues listed below. Then please call 718-596-3234, to schedule a consultation with our office, at 718-834-0190 or 718-596-3234.

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- Tax & Financial Planning For Business
- Small Business Solutions
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- Estate Planning & Wills
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COMMENTS:
