PUBLICATION

Immigration Update: Time to Get Simeio-Compliant; Faster H-1Bs; Permanent Resident Card Refresher; Increased Security Measures Expected in the Visa Waiver Program

August 20, 2015

USCIS Elaborates On Simeio

United States Citizenship and Immigration Services (USCIS) has now published a final policy memorandum designed to bring employers into compliance with the ruling in *Matter of Simeio Solutions, LLC* and to assess whether H-1B amendment filing is necessary for employee changes in the future. Specifically, the Policy Memorandum extends the Safe Harbor period to file amended or new petitions required under the *Simeio* decision from August 19, 2015, to January 15, 2016, for corrections of violations that occurred prior to the *Simeio* decision (before April 9, 2015):

- **Safe harbor period**: If a petitioner wishes, notwithstanding the above statement of discretion, to file an amended or new petition to request a change in the place of employment that occurred on or before the *Simeio* decision, the petitioner may file an **amended or new petition by January 15, 2016**. USCIS will consider filings during this safe harbor period to be timely for purposes of the regulation and meeting the definition of "nonimmigrant alien" at INA section 214(n)(2).

Regardless of the extended Safe Harbor period, which only applies to change of location violations that may have occurred before April 9, filing corrective H-1B amendments should not be delayed. If an employer is unclear on whether or not a particular employee's H-1B filings are in compliance with *Simeio*, please contact a member of our immigration group to discuss the timing and case history to assess what, if any, remedial actions may be necessary.

Full USCIS Final Policy Memorandum PM-602-0120

Baker Donelson's full discussion on *Simeio* and related guidance

June newsletter update

H-1B Extension Premium Processing Resumes

On July 13, 2015, USCIS resumed premium processing for H-1B extension petitions after this service was made temporarily unavailable due to workload increases. Petitioners can now "upgrade" H-1B extensions filed using regular processing by submitting the $1225 filing fee and I-907 Request for Premium Processing on paper or electronically for a faster adjudication. H-1B extensions are taking on average two months for processing per the latest published processing time reports, but with premium processing, H-1B extension petitions should be processed within 15 days.

For more information on upgrades or expedited filing, see the USCIS Premium Processing page here and here.

Signature Waived – Acceptable for I-9

USCIS recently issued a reminder that unsigned Permanent Resident Cards or Form I-551 (commonly known as green cards) with the notation “Signature Waived” in the lower left corner are acceptable documents for Form I-9, Employment Eligibility Verification, as long as they are unexpired and reasonably appear to be genuine and related to the presenter of the document. Since February 2015, USCIS has been waiving the signature requirement for people entering the United States for the first time as lawful permanent residents after obtaining an immigrant visa abroad from a U.S. Embassy or consulate.

Click here for more information and an example unsigned Permanent Resident Card.

Security Enhancements to the Visa Waiver Program

On August 6, 2015, Secretary Jeh C. Johnson announced significant steps undertaken by the U.S. government to address the evolving threat of foreign terrorist groups in furtherance of objectives of United Nations Security Council Resolution 2178. The Visa Waiver Program currently has 38 participating countries and will soon implement revised security criteria for all participants. These criteria, building on enhancements made to the Electronic System for Travel Authorization (ESTA) last fall, will apply to both new and current members and include:

- Required use of e-passports for all Visa Waiver Program travelers coming to the United States
- Required use of the INTERPOL Lost and Stolen Passport Database to screen travelers crossing a Visa Waiver country's borders
- Permission for expanded use of U.S. federal air marshals on international flights from Visa Waiver countries to the United States

Click here for the full release.