

PUBLICATION

UPDATED: Immediate Restrictions on H-1B Visa Program – Effective September 21, 2025

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Clarification as of 6:00 p.m. Eastern on September 20, 2025: USCIS has confirmed that the proclamation applies only prospectively to petitions that have not yet been filed:

The proclamation does NOT apply to aliens who: are the beneficiaries of petitions that were filed prior to the effective date of the proclamation, are the beneficiaries of currently approved petitions, or are in possession of validly issued H-1B non-immigrant visas. The proclamation does not impact the ability of any current visa holder to travel to or from the United States.

See Action Decision Memorandum- HQ Other.

Beginning 12:01 a.m. EDT on September 21, 2025, H-1B petitions filed for workers currently outside the U.S. will be denied unless accompanied by a \$100,000 supplemental fee per petition according to the Presidential Proclamation, **Restriction on Entry of Certain Nonimmigrant Workers**. International travel for visa processing and renewals will be impacted. **H-1B workers who do not currently hold a valid H-1B visa as of September 20, 2025 should consider refraining from all international travel or risk being unable to reenter the U.S.**

Although the Administration has not provided fee payment instructions, the Proclamation instructs the Department of Homeland Security (DHS) and the Department of State (DOS) to verify the employer's payment of the \$100,000 fee before approving an H-1B visa application or USCIS petition.

Absent a court order pausing implementation of the fee, the Proclamation will expire September 21, 2026, but may be extended.

For Affected H-1B Employers and Employees

Employers and foreign nationals presently outside the U.S. should consider the following until further clarification and guidance is provided.

- **H-1B workers with future plans to travel outside the U.S. or those currently outside the U.S. who will need to apply for a new H-1B visa to return should consider postponing travel until further clarification is provided regarding entry restrictions. If they are unable to postpone their international travel, they may encounter significant delays returning to the U.S.**
- **Extensions and Amendments** are currently not impacted by the Proclamation for individuals currently in the U.S.
- **H-1B beneficiaries planning to use B-1/B-2 or ESTA before October 1, 2026 or intending to travel under those classifications prior to a change of status or period of stay should be mindful of increased scrutiny by the DOS and consult your Baker Donelson immigration attorney before entering the U.S.**

We advise employers to follow the text of the Proclamation until further guidance is available. Employers are urged to communicate with employees currently outside the U.S. about visa issuance delays, denials, and significant travel delays when reentering the country.

Additional Key Points of the Proclamation

- **H-1B CAP-exempt employers** are not specifically exempted from the fee. However, it is likely that industries already considered to be in the national interest of the U.S. may be exempted from the additional \$100,000 entry fee.
- **Rulemaking for Prevailing Wages** requires the Department of Labor to prepare new regulations to raise prevailing wage levels with DHS to prioritize approval of higher-paid H-1B workers.

While the H-1B visa program remains active, including alternative petition pathways such as national interest exemptions, we anticipate further guidance from the Administration and expect legal challenges to this proclamation in the days ahead. Please contact a **Baker Donelson immigration attorney** with questions. Our attorneys are prepared to help employers develop strategies to navigate the reentry of employees outside the U.S. after the effective date of the Proclamation.