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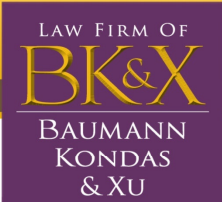
SOCIETY FOR HUMAN
RESOURCE MANAGEMENT

United States Immigration

Current Trends and Changes

Ladd A. Baumann, Esq. • October 17, 2014

INTRODUCTION





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Welcome!

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We're the law firm of Baumann, Kondas & Xu, and we're experts in U.S. immigration and related business law and family law.

We offer expert counsel and legal services for individuals, families, investors and companies with immigration and business concerns.

We have the knowledge, skills, judgement and experience to guide you successfully through the complex and changing U.S. immigration system.

We are well acquainted with all aspects of immigration law for the U.S.A., including citizenship, Green Cards, family reunification, spouse and fiancée petitions, deportation defense and relief from removal, and all kinds of visas for professionals, skilled workers, families and businesses.

We help a wide range of companies which include, but are not limited to, accounting firms, airlines, banks, bridal services, churches, international and local construction companies, hotels and resorts, insurance and health care plans, multi-national petroleum corporations, restaurants, retail stores, schools, telecommunications / technology firms, and shopping centers.

Our firm has 25 years experience practicing in Guam and the Commonwealth of the Northern Mariana Islands (C.N.M.I.). We are a team of four attorneys with a support staff of 11.

Our offices are located in the capital city of Hagatna, Guam at a pivotal point in the Pacific between America and Asia.

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Whatever your immigration needs, we invite you to call or come see us. Your first consultation with an attorney is **FREE** of charge at **Baumann, Kondas & Xu.**

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H VISA (TEMPORARY WORKERS)

H1B (Specialty Occupation)	H2B (Skilled Workers)
H3 (Trainees)	H4 (Dependents)

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H-1B VISA

H1B Visa is for professionals such as:

- Teachers in all the private schools of Guam
- Doctors at Guam clinics
- Medical Professionals at Guam Clinics
- Accountants at Guam businesses and CPA firms
- Architects and engineers at Guam's professional architectural and engineering firms
- Architects, engineers and other similar jobs at Guam construction firms
- Engineers and systems analysts at telecommunications companies and data processing businesses in Guam.
- Data administrators and related jobs at Guam insurance agencies

Enforcement

- Enforcement efforts are increasing
- Site visits are more common
- Penalties for non compliance are increasing

Numerical of 65,000. Guam and CNMI Cap exemption expires December 31, 2014.

Without the cap exemption, Guam and the CNMI will have no H1B visas in 2015 until October 1 and a limited number by lottery after that.

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H-2B VISA (Temporary Skilled Labor)

- The H-2B visa is a non-immigrant visa which allows foreign nationals to enter into the U.S. temporarily and engage in non-agricultural employment which is seasonal, intermittent, a peak load need, or a one-time occurrence.
- The H-2B Visa classification requires a temporary labor certification from the Government of Guam advising the Department of Homeland Security's United States Citizenship and Immigration Services (USCIS) as to whether or not qualified U.S. workers are available and whether or not the alien's employment will adversely affect the wages and working conditions of similarly employed U.S. workers, or a notice that such certification can not be made, prior to filing an H-2B visa petition with USCIS.
- H-2B visas have a numerical cap of 66,000 per year, allocated 33,000 every 6 months. Guam and the CNMI are cap exempt to December 31, 2014. After that a limited number of H-2B visas will be available. National Defense Authorization Act (NDAA) requires recruitment efforts for US military projects before H-2B visas can be used



L VISA (Intra Company Transfer)

- Qualifying relationship (parent, branch, subsidiary, affiliate)
- Managerial or executive responsibilities for more than one year in the past three years (L-1A) abroad.
- Recent anti L-1 visa fraud program means that USCIS requests more documentation.
- L-1 telephone contacts and site visits are becoming more common.
- Blanket L allows large companies (\$25 million per year in sales) to prequalify and get expedited treatment for L visa applications.



E VISA (Trader & Investor)

Treaty Countries

- Japan
- Korea
- Philippines
- Taiwan
- Australia

Active Investment and hiring of U.S. workers (E2) or trade volume and percentage of the international trade with the U.S. (E-1)

Investor or Employee
(Senior Managers or Essential Workers)

E3 visa is a visa for Australians similar to H-1B

E Visas at this time have the fewest problems



H4 and OTHER DEPENDENTS

H-4 visa holders will be eligible for employment authorization when the H-1B visa holder has an approved I-140 or when the H-1B visa holder has reached the 6 year anniversary and has a PERM application pending.

Customs and Border Patrol is now enforcing "follow to join" rule. That is the primary visa holder must be in the US before or at the same time as dependents.



J VISAS (International Exchange Visitors)

Similar to H-3 Visas

- Must be set up by the Department of State authorized agent
- Two year home residency requirement
- Waiver of home residency requirement
- Proposed changes will increase supervision of trainees and sponsors for compliance particularly for small US employer/sponsors.



EXPANDED ENFORCEMENT

- Increased H-1B & R-1 (religious) visa site visits
- I-9 Compliance
- J-1 mandatory site visit for all sponsors with less than 25 employees or \$3 million in revenue
- VIBE uses Dunn & Bradstreet verification for all visa sponsors
- PERM/GreenCard applications will have increased review of bonafide job offer
- DOL continues to apply the rules or to change the rules in unpredictable ways
- Site visits and increased document requests will apply to new companies
- Some US Consulates overseas have increased review of visa applications. At this time India and the Philippines have gotten more difficult, China has gotten easier



PROSPECTS FOR IMMIGRATION REFORM

- Congress is deadlocked
- The senate passed an immigration reform bill but the House refuses to put it to a vote.
- The senate bill would:
 1. Allow legalization in return for increased enforcement at the border
 2. Create new opportunities for immigrant visas using a point system
 3. Change the quota/priority date country allocation system to eliminate backlogs and promote STEM immigration
 4. Increase the number of H-1B visas from 115,000 up to 180,000
 5. Create a W visa for less skilled workers
 6. Create a small investor visa for \$100,000 investment



ALTERNATIVES TO CONGRESSIONAL ACTION

1. The President is beginning to use his executive powers for immigration to bypass Congress.
2. The DACA program for children who come to the US as children
3. Proposed Addition:
 - a) Parents of US citizen children
 - b) Parents of DACA children
 - c) Residents of US for more than 3 years
4. Use parole in place for humanitarian reasons
5. Allow early filing of adjustment applications before the priority date is current including work authorization
6. Expand the O-1 (extraordinary ability) visa to cover what are now H-1B visas
7. Redefine and broaden the exemptions to the H-1B cap.



End of Presentation

By:
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Thank you!

