

Immigration News and Updates

December 29, 2003

H-1B Cap

In response to reports that the H-1B cap is near being exhausted, Mr. William R. Yates, Deputy Director, Citizenship and Immigration Services ("CIS"), replied that the CIS is not near the cap at this time. The CIS will release information at the end of January, 2004, to inform where it stands and at that time he will decide whether to notify customers of a projected "cap date". Mr. Yates still believes that we will hit the cap this spring, but he won't be more specific until January.

We are therefore advising all clients filing H-1B for new employees to file them with a Premium Processing Application as early as possible, so as to ensure that an H-1B visa will be available for them in 2004. Congress is to review the H-1B cap issue in the spring, but has no projected date on such a hearing to date.

Fingerprint Notices

The CIS Vermont Service Center has reported that there has been an outstanding glitch with the systems utilized for background checks, CLAIMS 3 program integration with CLAIMS 4, which is producing multiple/duplicate fingerprint notices. We advise that applicants be re-fingerprinted on subsequent notices, and that individuals contact us if additional duplicate fingerprint notices are received so we can contact the Application Support Center to report the error.

IRS News

On December 17, the Internal Revenue Service ("IRS") announced that it will implement several steps to strengthen controls over the issuance of Individual Taxpayer Identification Numbers ("ITIN"). From now on, the IRS will require that individuals demonstrate a federal tax purpose for obtaining an ITIN, and will require proof of identity from among 13 acceptable documents in order to issue the ITIN. The IRS will also change the appearance of the ITIN card to an authorization letter so as to avoid any similarities with a Social Security Number card. This change is effective immediately.

And on a final note: Case precedent for cultural gun uses

The Seventh Circuit found that firing a gun in the air on New Year's Eve can meet the "cultural purpose" exception to unlawful gun use, which would constitute an approved purpose for using a gun. However, the Court rejected the petitioner's cancellation of removal (i.e., deportation from the U.S.) claim finding that shooting a gun into the air to celebrate a holiday is "part of the culture of some other countries, but is not part of the American culture." [Lemus-Rodriguez v. Ashcroft (11/26/03)].

For more information about this, or other U.S. immigration issues, please contact our Miller Canfield Immigration Practice. This message is for general information only and should not be used as a basis for specific action without obtaining further legal advice