

EMPLOYMENT BASED IMMIGRATION (EBI)

EB-2 & EB-3 Categories

Topics of Discussion

- Introduction
- Categories of Employment Based Immigration
- Overview of the current system
- Conclusion
- Address any questions.

INTRODUCTION

1. Aim of the EBI is to enhance U.S Competitiveness in the Global Market.
2. EBI constitutes less than 17% of the total Immigrant population.
3. Discuss why we need immigrant visas when these workers can be brought under non-immigrant visas like H-1, L-1 or B-1.

FACTS

- A study released by Harvard Business School in Dec 2008 found that immigrants comprise nearly half of all scientists and engineers in the United States who have a doctorate, and accounted for 67 % of the increase in the U.S. science and engineering work force between 1995 and 2006.
- A study by the Technology Policy Institute in 2009 found that, in the absence of H-1 B and green-card limitations from 2003-2007, foreign graduates of U.S. universities in science, technology, engineering and math fields would have raised our GDP by about 13.6 billion dollars in 2008 and contributed 2.7 to 3.6 billion dollars in taxes.
- Tension in the House – Between Congressmen and Employers.
<http://www.youtube.com/watch?v=GC6cSz9gRhc>

EBI Categories

- EB-1 – Extraordinary abilities, outstanding professors and researches
- EB-2 – Exceptional abilities, advanced degree professionals, physicians, persons with masters degree or higher
- EB-3 – Skilled workers, professionals with bachelors degree
- EB-4 – Special Immigrants, Religious workers
- EB-5 - Investors

Discuss EB-2 & EB-3

- Discuss why the different categories make a difference.
- Who can apply under EB-2 & EB-3 category?
 1. Discuss education, experience and the job requirements.
 2. Discuss why all aliens with Ph.Ds sometimes have to apply only under EB-2 and not under EB-1 category
 3. Discuss circumstances when a person without a masters degree could also qualify under EB-2
 4. Discuss circumstances when a person with a masters degree from a U.S institution could not qualify under EB-2
 5. Discuss why the experience with the petitioning employer does not count for the Immigration petition.

EBI Petition

- Who is the petitioner ?
- Who is the beneficiary ?
- What should the petitioner demonstrate?
- Tension in the House – Between Congressmen and Employers.

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EBI Steps

Labor Certification



Labor Approval



Adjustment of Status



Green Card

Steps : Labor Certification Process

1. Obtain Prevailing Wage from the State Work Force Agency (SWFA).
2. Advertise the position in local news papers, employment websites, employers work place.
3. Interview all the applicants who apply for the position.
4. Prepare the recruitment report (show sample).
5. File form ETA-9089 with US Department of Labor.

NOTE: Priority date is the date when ETA-9089 form is received by the US Department of Labor.

Steps : Labor Approval Process

Labor approval form (I-140) needs to be applied at the respective service center along with other documentation which includes the Employers financial information, copies of the employees certificates, experience letters, recent paystubs etc.

NOTE : In case the priority date becomes current then a person can apply for both I-140 and I-485 simultaneously.

Adjustment of Status

- When the priority date becomes current the beneficiary can apply for the adjustment of status (I-485) at the respective service center.
- Along with the I-485 form the beneficiary and his family members are required to submit Police Clearance and Medical Certificates.
- In case the Green Card is not approved within 180 days after applying for the Adjustment of status, the beneficiary and his family will be eligible to receive an Employment Authorization Card (EAD).
- Discuss regarding the Advance Parole Document. (Warn clients about its disadvantages).

2007 Regulations

- Discuss why did the issue with the labor certifications come up in 2007 ? Employers selling Labor Certifications etc...

Prior to 2007 Regulation	After 2007 Regulation
Law did not prohibit the employees from paying back the employer for costs associated with labor certification	The regulations prohibit payments by or on behalf of the employee to reimburse the employer's costs for obtaining certification
Approved certifications were valid indefinitely	The approved certifications must be filed with in 180 days

Visa Bulletin

Employment Based Category	All chargeability areas except those listed	China Main Land Born	India	Mexico
EB-1	C	C	C	C
EB-2	C	C	C	C
EB-3	C	C	C	C

IMPORTANT NOTES

1. Discuss when an employer can change jobs .
2. Discuss the effects of changing jobs after labor certification, labor approval, after applying for adjustment of status.
3. Discuss the disadvantages of applying for a green card.
4. Discuss why it is safer for the employee to be on a non-immigrant visa until his green card is approved.
5. Questions & Comments

Visa Bulliten

Employment Based Category	All chargeability areas except those listed	China Main Land Born	India	Mexico
EB-1	C	C	C	C
EB-2	C	15 Apr 07	15 Apr 07	C
EB-3	01 Nov 05	08 Jul 04	08 Jul 04	01 Nov 05