

Five Groups in Employment-Based Category

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Much of the increase in the total immigrant visas was partly due to the rise in the quota for visas based on job skills. Congress realized that the US could be more at an advantage by admitting more skillful immigrants thus tripling the number of the old quota. In the past, less than 10 per cent of the total immigrant quota became immigrants based on their job skills.

While it removed the employment-based nature of the old third and sixth preference, employment-based immigration rules were altogether redrawn and under the new law, categorized into five groups. From the old quota of 54,000, employment-based quota sharply increased to 140,000.

The first group in this employment based system to which 40,000 visas will be reserved are the "priority workers" with extraordinary ability, including outstanding professors and researchers, and certain executives and managers of multinational corporations. Extraordinary ability is proved through documentation consisting of publications in respected journals, reviews of his contributions to his profession and statements of recognition of his expertise by prominent organizations. Prizes, awards, or receipts of box office or record sales are some of the proofs required to establish recognition of his expertise. Admission to this category is reserved for that small percentage of individuals who have excelled in their chosen field of work. Such individuals can apply on their own without the sponsorship of a US company.

Outstanding professors or researchers are those with at least three experience in teaching or research and "recognized internationally". It isn't quite clear how qualified persons can provide documentation to prove this. In any case, only their employers can file petitions for them. Executives and managers under this subcategory must be coming to the US in a managerial or executive capacity.

The second group with another 40,000 visas consist of members of the professions holding advance degrees and aliens of "exceptional ability". A job offer and a labor certification from the Department of labor are required to persons in this category. The new law defines "advanced degree" as a bachelor's degree with "at least five years progressive experience in the profession". The possession of certificates, diploma or award is not sufficient unless he can demonstrate special competence in his calling, whether in the arts, sciences or business.

The third group includes skilled workers, aliens who hold baccalaureate degrees and who are members of the professions, and unskilled workers. A total of 40,000 visas will be reserved for this set, but only 10,000 will be allocated to unskilled workers. Unskilled workers are defined by those having less than two years experience or training. This third category requires a job offer from a US employer and a labor certification.

This third group could experience a major backlog because most of the pending 3rd and 6th preference will be carried over to this group.

The fourth set with 10,000 visas available be reserved for "special immigrants" among others, ministers and other religious workers. The last group also with 10,000 visas will be reserved for aliens with \$500,000 to \$3 million to invest in an enterprise that will generate employment for at least 10 US workers. 3,000 of the 10,000 total in this group are reserved for special areas marked by high unemployment.

Beginning October 1, 1991, the current third and sixth preferences will be reclassified under the new employment-based categories. Those who have applied for third and sixth preference petitions previously will have to file new petitions between October 1, 1991 and October 1, 1993 to be reclassified under the new law. The priority dates, however, will be retained provided they do file by October 1, 1993. If a third or 6th preference is still pending by October 1, 1991, the applicant most probably will have to file a new petition and start all over.

Diversity-Based Immigrants

Beginning FY 1995, 55,000 visas will be allotted annually to spouses and children of natives of countries with fewer immigrants in the US. In addition to this 55,000 visas, an additional 40,000 will be made available to nationals of adversely-affected countries, specifically natives of Ireland who are already in the US.

Per Country Limit

The IA90 sets the visa limit per country at 7 per cent of the total preference limits on family and employment -based petitions. If the total limit on family preference system is 226,000, and employment-based preference system is 140,000, giving a total of 366,000, seven percent of this total will be 25,620. Thus 25,620 visas will be reserved per country annually, up from the old limit of 20,000 per country annually.

The Philippines will be entitled to about 25,000 visas yearly up by 5,000 under the old law.

In addition, the law provides for an additional 2 per cent allowance on the family and employment-based preference limits specifically for colonies and specified dependent areas. These are not the diversity-based countries. In other words, an additional 2 per cent of visas will be allowed on top of the preference limits. That works out to a minimum of 7,320. Spouses and children of permanent residents from Mexico and the Philippines will particularly benefit from this provision, causing a reasonable decline in the backlog of second preference visa petitions pending from the two countries.