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## **Which Family Visas Will Move Faster Under the New Law?**

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One of the most common questions being asked now about the recently amended immigration law is why visas for spouses and minor children of permanent residents now move considerably faster than ever before. A few months ago, visa numbers were available for dependents whose priority date was July 1984. As of December 1991, visa numbers are now available for dependents with priority dates of January 1989. This is a good leap of four years within a span of a few months.

In the same vein, visa numbers for brothers and sisters and adult and married children of US citizens have not moved up at all. The answer lies in the new system of visa allocation and increase of visa numbers for the family-based second preference.

To understand this more clearly, a discussion of the new preference categories and their respective visa quota allocation is in order:

### IMMIGRANT PREFERENCES IN GENERAL

There are three general categories under this new preference system for intending immigrants, namely: family-sponsored, employment-related and diversity-based. For the beginning of the fiscal year 1992 which started in October 1991, the new law puts a total cap on the three categories to 700,000 visas to aliens from all over the world. These are allotted as follows: 465,000 visas for family-sponsored immigrants; 140,000 for employment-based immigrants; and a total of 40,000 for "diversity aliens".

Beginning in the fiscal year 1995, the cap on immigrants will decrease to 675,000.

### FAMILY PREFERENCES

The visa number for the family-based category is divided as follows: 465,000 to immediate relatives of US citizens and family-sponsored ties as outlined in four preference categories and 55,000 to spouses and minor children of newly legalized aliens.

There is no numerical limit to the immediate relatives of US citizens who can immigrate. However, to prevent pushing out petitions by the family-sponsored preference immigrants into the borderline numerical limit by the unrestricted petitions by immediate relatives, the law specifies that the family preference visas cannot drop below 226,000 a year. This is higher than the 216,000 level under the old law. As for the immediate relatives, there were about 217,500 admitted in fiscal year 1989.

The four family-sponsored preference categories are as follows:

A) First preference: 23,400 visas for adult unmarried children of US citizens. The new quota is a substantial reduction from the old law's 54,000 visas for the first preference. Record shows that there were only 13,259 people who immigrated in FY 1989. Analysts say that even with the sharp decline in the visas allocated, beneficiaries in the waiting list of this category is not likely to be affected. This conclusion is not applicable to Filipinos who will suffer longer delays as a result of the visa reduction.

#### FILIPINOS TO BENEFIT

B). Second Preference: This category will receive 114,200 visas a year plus any leftover from unused visas from the family first category. The new law divides this category into 2 parts: The "Family 2A" for spouses and minor children of permanent residents, and "Family 2B" for unmarried sons and daughters of permanent resident aliens.

Seventy-seven per cent of the total quota for this category will be reserved for the Family 2A, that's about 88,000 visas and of these, 75% will not be counted against the per country limit. The Philippines, Mexico and the Dominican Republic should benefit from the exemption from the per country quota and the increase of the overall quota, from 70,200 up to the new law's quota of 114,200. It is thus predicted that in time these 3 countries will catch up with the worldwide priority date (the current date for processing pending visas).

There were reportedly 420,000 backlogged cases in this category and almost half are natives from Mexico, the Philippines, and the Dominican Republic. Normally, it takes a three-year waiting time for natives from other countries to finally immigrate into the US. For nationals of these three countries, however, there is a waiting time of no less than 7 to 15 years before they can apply for their green cards.

This will no longer be the case.

#### QUOTA REDUCED

C). Third Preference: The 1990 law allocates 23,400 visas annually for married sons and daughters of US citizens plus any unused visas from the 1st and 2nd categories.

Under the old law, married sons and daughters of US citizens were categorized under the fourth preference. Both the fourth and fifth preference of the old law were moved up, the fourth preference of the old moving to the third, and the fifth to the fourth. (Both the 3rd and 6th preference of the old law were employment-based).

The new quota of 23,000 is a reduction from the old law's 27,000 visas in this category. A high of 26,975 people in this category (4th preference under the old law) immigrated to the US in FY 1989 that more backlog is likely to occur in this category in the current fiscal year under the new law.

D). Fourth Preference: 65,000 visas will be made available annually for brothers and sisters of adult US citizens plus any unused visas from the first, second and third categories. The number only adds 200 to the 64,800 quota under the old law. Visa petitions for brothers and sisters of adult US citizens were categorized in the fifth preference of the old law.

There are reportedly 1.4 million people in the waiting list of this category. With the meager increase in quota, people who submit their petitions today would have a long wait of no less than 30 years.

Beginning in FY 1995, visas made available for family-sponsored immigrants will increase from 465,000 to 480,000 annually and the special three year visa program for spouses and children of legalized aliens will end.

The new law expands the definition of "immediate relatives" which until then only included minor children, spouses and parents of US citizens over the age of 21. Widows and widowers who have been married to a US citizen for at least two years before their spouses died can now be defined as immediate relative. It will end, however, when they remarry.

While there is no numerical restriction on petitions for immediate relatives, the total number of petitions is subtracted from the family preference visa petitions for the following fiscal year. The remaining visas will then be distributed accordingly to the four family preference system.

The number of visa petitions by immediate relatives normally cannot exceed 239,000 in order that the "floor" quota number for the preference categories can still be distributed. However, if it does exceed, the spillover will be counted among the 55,000 "transition" visa numbers for the following fiscal year. This special provision runs only for three years and will end in FY 1994. Filipinos may be able to benefit from this "transitional" visas.