



GMS Flash Alert

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United States - Temporary Suspension of Premium Processing for All H-1B Petitions

Starting April 3, 2017, United States Citizenship and Immigration Services (USCIS) will temporarily suspend premium processing for all H-1B petitions.¹ This suspension may last up to six months. While H-1B premium processing is suspended, petitioners will not be able to file Form I-907, *Request for Premium Processing Service* for a Form I-129, *Petition for a Nonimmigrant Worker* which requests the H-1B nonimmigrant classification.

USCIS will notify the public before resuming premium processing for H-1B petitions.

WHY THIS MATTERS

Immigration advisers and global mobility professionals charged with handling the immigration matters of their assignees, and-employees and other individuals with plans to come to work in the United States should be aware that with the suspension on Premium Processing, from April 3, 2017, all H-1B CAP cases, H-1B Amendments, H-1B Extensions, and H-1B Change of Employers will be filed with regular processing. The current processing time for H-1B petitions filed via regular processing ranges from 5 - 12 months. It should be anticipated that without Premium Processing in operation, for the immediate future, processing H-1B applications and getting workers into the U.S. under this visa type could take longer than expected.

USCIS has indicated that this temporary suspension will help the agency to reduce overall H-1B processing times.

If an employee has urgent personal or business-related travel plans and will require a new visa to re-enter the U.S., an upgrade to Premium Processing of his or her pending amendment or extension is recommended prior to April 3, 2017, though there is no guarantee that USCIS will be able to fill all requests to Premium Process prior to April 3, 2017.

Background

USCIS' Premium Processing Service provides expedited processing for certain employment-based petitions and applications. Premium Processing is requested by filing form I-907 with the \$1,225.00 filing fee. Premium Processing requires USCIS to render a decision to either approve, deny, or issue a Request for Evidence ("RFE") on the case within 15 calendar days. In the event an RFE is issued, the USCIS will have another 15 calendar days to either approve or deny the case upon receipt of the RFE response.

Who Is Affected?

The temporary suspension applies to **all H-1B petitions filed on or after April 3, 2017**. Since FY18 cap-subject H-1B petitions cannot be filed before April 3, 2017, this suspension will apply to all petitions filed for the FY18 H-1B regular cap and master's advanced degree cap exemption. The suspension also applies to petitions that may be cap-exempt.

While Premium Processing is suspended, USCIS will reject any Form I-907 filed with an H-1B petition. If the petitioner submits one combined check for both the Form I-907 and Form I-129 H-1B fees, USCIS will reject both forms.

Can Premium Processing Be Applied for Before April 3, 2017?

USCIS will continue to Premium Process Form I-129 H-1B petitions if the petitioner properly filed an associated Form I-907 before April 3, 2017. USCIS will however refund the Premium Processing fee if:

- 1 The petitioner filed the Form I-907 for an H-1B petition before April 3, 2017, and
- 2 USCIS did not take adjudicative action on the case within the 15-calendar-day processing period.

Therefore, although an individual may apply for Premium Processing for his or her H-1B petition prior to April 3, 2017, USCIS does not guarantee that it will Premium Process the case.

Are Other Categories Affected by the Suspension?

No, this temporary suspension of Premium Processing does not apply to other eligible nonimmigrant classifications filed on Form I-129. Only H-1B petitions are subject to the suspension of Premium Processing.

Requesting Expedited Processing

While Premium Processing is suspended, petitioners may submit a request to expedite an H-1B petition if they meet the criteria on the [Expedite Criteria Web page](#). It is the petitioner's responsibility to demonstrate that he or she meets at least one of the expedite criteria, and USCIS encourages petitioners to submit documentary evidence to support the expedite request.

USCIS will review expedite requests on a case-by-case basis and requests are granted at the discretion of the office leadership.

What Are the Expedited Criteria?

USCIS will review expedite requests on a case-by-case basis and requests are granted at the discretion of the office leadership.

USCIS may expedite a petition or application if it meets one or more of the following criteria:

- Severe financial loss to company or person;
- Emergency situation;
- Humanitarian reasons;
- Non-profit organization whose request is in furtherance of the cultural and social interests of the United States;
- Department of Defense or national interest situation (these particular expedite requests must come from an official U.S. government entity and state that delay will be detrimental to the government);
- USCIS error; or
- Compelling interest of USCIS.

A request to expedite the adjudication of a petition based on the above will be subject to a high level of scrutiny. Some examples of where a petition may be considered include:

- Travel outside the U.S. is required due to death or severe illness in one's immediate family;
- Travel outside the U.S. to receive medical care;
- Outbreak of war in one's home country.

Why Is the USCIS Temporarily Suspending Premium Processing for H-1B Petitions?

This temporary suspension will help USCIS to reduce overall H-1B processing times. By temporarily suspending premium processing, USCIS will be able to:

- process long-pending petitions, which USCIS has currently been unable to process due to the high volume of incoming petitions and the significant surge in premium processing requests over the past few years; and
- prioritize adjudication of H-1B extension of status cases that are nearing the 240-day mark.

How Will H-1B Cap Cases Be Processed?

With the suspension on Premium Processing, all H-1B CAP cases will be filed with regular processing. This means that USCIS will adjudicate the H-1B cases within regular processing times. The current processing time for H-1B petitions filed via regular processing ranges from 5-12 months. USCIS has indicated that its objective, in temporarily suspending Premium Processing for H-1B petitions, is to reduce overall H-1B processing times.

Foreign Nationals with Pending H-1B Extensions and Amendments

If an employee has urgent personal or business-related travel plans and will require a new visa to re-enter the U.S., an upgrade to Premium Processing of his or her pending amendment or extension is recommended prior to April 3, 2017.

It should be noted however that there is no guarantee that USCIS will be able to fill all requests to Premium Process prior to April 3, 2017. USCIS has stated that in the event USCIS cannot adjudicate the case with Premium Processing filed prior to April 3, 2017, refund checks will be issued.

FOOTNOTE:

1 See the March 3, 2017 [USCIS News Alert](#).

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Thursday, March 9, 2017 – Tax Reform Thursdays: a Webcast on “The New Administration: What HR/Mobility Professionals Need to Consider”

Uncertainty, change, and opportunity are the headlines kicking off 2017. What does this mean for HR/Mobility professionals? This Webcast will focus on the potential legislative and regulatory changes that could affect:

- compensation and benefits programs (including the Affordable Care Act);
- immigration;
- mobile employees;
- additional areas of interest to the HR community.

Please join KPMG for this engaging panel discussion via Webcast, which will highlight what these potential changes could mean to the HR function, your employees, and your organization’s overall talent management approach.

Date: Thursday, March 9, 2017

Time: 2:00 p.m. - 3:00 p.m. (U.S. EST; GMT -5)

To Register: Click [here](#).

Contact us

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