

Mobility: Immigration alert

September 2023

United States

Work authorization and travel program updates end fiscal year 2023 on a positive note

Executive summary

As part of its continuing commitment to reduce processing times and backlogs, U.S. Citizenship and Immigration Services ("USCIS") announced on 27 September 2023 that new updates to its Policy Manual reflect that certain initial and renewal Employment Authorization Documents ("EADs") will now carry a maximum validity period of five (5) years instead of two (2).

Also on 27 September, the Secretaries of the Department of Homeland Security and the Department of State announced that citizens and nationals of Israel will be able to apply online for authorization to travel to the U.S. through the Electronic System for Travel Authorization ("ESTA") beginning 30 November 2023.

Background and analysis

In order to work in the United States, certain noncitizens must file a Form I-765, Application for Employment Authorization, with USCIS. The COVID-19 pandemic created unprecedented delays in adjudications of immigration benefits requests, including Form I-765, which prevented applicants from obtaining work authorization in a timely manner and disrupted existing work authorization even when applicants sought renewal well in advance of the expiration of their existing EAD.

EADs carry a variety of validity periods depending on the category under which the noncitizen is applying. With the new guidance, effective immediately, certain applicants will

now be eligible to receive initial and renewal EADs valid for up to five years. This includes applicants for adjustment of status (Form I-485) under Section 245 of the *Immigration and Nationality Act*, who may file an I-765 concurrently with their I-485 green card application.

In addition, Israel was admitted into the Visa Waiver Program ("VWP"). This will permit citizens and nationals of Israel to travel to the United States for up to 90 days for business or tourism without first obtaining a B-1/B-2 nonimmigrant visa, once approved through ESTA. Authorization to travel to the United States through ESTA is generally valid for two years. Israelis already in possession of valid B-1/B-2 visas may continue to use them as they have in the past.

What this means

Increasing the validity period of certain EADs is expected to have the effect of significantly reducing the number of Forms I-765 received by USCIS over the next several years. Such a reduction in volume is expected to reduce associated processing times and backlogs.

Further, receiving EADs valid in five-year instead of two-year increments ought to reduce the likelihood that adjustment of status applicants will experience gaps in work authorization while awaiting issuance of their green cards. This is critical for many applicants who often have to wait decades for a green card and may be unable to maintain underlying nonimmigrant work authorization.



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Israel's designation into the VWP means that reciprocal privileges will also be extended to all U.S. citizens. In addition to encouraging legitimate travel and commerce, the VWP designation is expected to enhance the security of both countries through comprehensive security partnerships with law enforcement and counterterrorism authorities.

We will continue to monitor and review future developments. For additional information, or if you wish to discuss this further, please contact your EY Law LLP professional.

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