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USCIS Increases Application and Petition Filing Fees as of December 23, 2016

On October 24, 2016, United States Citizenship and Immigration Services (“USCIS”) published a final rule in the Federal Register adjusting the filing fees required for many nonimmigrant and immigrant application and petitions. The fee adjustment increases filing fees by a weighted average of 21 percent for most applications and petitions. These new fees will become effective beginning on December 23, 2016.

This is the first time USCIS has adjusted or raised its fees in six years. USCIS is largely funded by these filing fees, which are necessary to recover the costs associated with USCIS’s services including fraud detection and national security, customer service and case processing, and providing services without charge to refugee and asylum applicants and to other customers eligible for fee waivers or exemption. USCIS conducts a fee review every two years to determine the funding levels necessary to administer the United States’ immigration laws, process requested immigration benefits, and support those activities. After conducting its fee review for the FY 2016/2017, USCIS asserts that this fee increase is necessary to recover the full cost of its services.

The final rule in the Federal Register includes a table summarizing current and new fees (<https://www.federalregister.gov/documents/2016/10/24/2016-25328/us-citizenship-and-immigration-services-fee-schedule>). The new fees are also listed on the Form G-1055, Fee Schedule (<https://www.uscis.gov/forms/g-1055>), and on the USCIS website. Applications and petitions postmarked or filed on or after December 23, 2016 must include the new fees.

Some of the most notable fee increases, include:

- Form I-129, Petition for a Nonimmigrant Worker: increase from \$325 to \$460. This is the form used to request temporary employment authorization in a variety of classifications, including the H-1B program for skilled workers.
- Form I-140, Immigrant Petition for Alien Worker: increase from \$580 to \$700. This is the form used to request immigrant (e.g. permanent or “green card”) status through employment-based classifications.
- Form I-130: Petition for Alien Relative: increase from \$420 to \$535. This is the form used to request immigrant (e.g. permanent or “green card”) status through family-based classifications, including marriage to a U.S. citizen.



- Form I-526, Immigrant Petition by Alien Entrepreneur: 145 percent increase from \$1,500 to \$3,675. This form is used to request immigrant (e.g. permanent or “green card”) status through the lengthy Employment Based Fifth Preference (“EB-5”) process. The EB-5 visa program provides green cards to foreign residents who invest a substantial amount of money in a U.S. business and create jobs for American workers.
- Form I-485, Application to Register Permanent Residence or Adjust Status: increase from \$985 to \$1,140. This is the form used to request permanent residency (e.g. a green card) based on an approved immigrant classification.
- Form I-765, Application for Employment Authorization: increase from \$380 to \$410. This is the form used to request temporary employment authorization when it is incidental to status, including F-1 students on Optional Practical Training.
- Form I-90, Application to Replace Permanent Resident Card: increase from \$365 to \$455. This is the form used to renew an expiring green card, or replace a lost or stolen green card.
- Form N-400, Application for Naturalization: increase from \$595 to \$640. This is the form used to apply for United States citizenship.
- Form I-924A, Annual Certification of Regional Center: USCIS created a \$3,035 fee. This is an essential form used by EB-5 visa applicants through regional centers, which pool immigrant investor funds.

In addition to raising fees, the new regulation prevents USCIS from rejecting an application or petition paid with a dishonored check until the remitter has been provided an opportunity to correct the deficient payment (e.g. USCIS will submit all initially rejected payments to the applicant’s bank a second time for it to clear or be rejected). It does, however, allow USCIS to reject an application or petition field without the correct biometrics fee. The new regulation further clarifies that persons filing any benefit request may be required to appear for biometrics services or an interview and may be required to pay the associated biometrics services fee.

While an increase in filing fees is not unexpected from USCIS, many immigration attorneys have voiced concern that the increase will deter foreign nationals from applying for certain immigration benefits. Although USCIS considered this concern, it was ultimately outweighed by the agency’s need to recover the full cost of its services.

Questions or Assistance:

If you have any questions about this alert, please feel free to contact Brenda Eckert at beckert@goodwin.com or (860) 251-5712 or Ashley Mendoza at amendoza@goodwin.com or (860) 251-5018.

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