

EMPLOYMENT-BASED PERMANENT RESIDENCE: AN OVERVIEW

The *Employment Preference System* allows certain immigrants to obtain permanent residence (“green cards”) in the United States. Currently, immigration law allots 140,000 employment-based visas to foreign nationals who wish to immigrate to the U.S. Because there are limited number of employment-based visas available in each category, there are at times backlogs for beneficiaries of employment-based petitions which create delays in the availability of an immigrant visa. To determine whether there is a delay in the availability of an immigrant visa in a particular employment-based category, refer to the U.S. State Department’s Visa Bulletin (http://www.travel.state.gov/visa_bulletin.html), which provides information about the availability of immigrant visas in each employment-based and family-based preference category. (NOTE: The visa bulletin indicates that a preference category is either “current,” meaning there is currently no backlog, or provides a cutoff date (“priority date”) by which an immigrant visa petition must have been filed in order for an immigrant visa to be available). The employment-based visas are divided among the following categories, as follows:

FIRST PREFERENCE:

May be issued to *priority workers*, which includes:

- ◆ individuals who possess *extraordinary ability* in the sciences, arts, education, business or athletics;
- ◆ individuals who qualify as *outstanding professors and researchers*; and
- ◆ certain *multinational executives and managers*

SECOND PREFERENCE:

May be issued to persons who are *members of the professions holding advanced degrees or aliens of exceptional ability*. Individuals in this category may seek an exemption from the requirement of a job offer, and thus a labor certification, by demonstrating that their admission is in *the national interest*.

THIRD PREFERENCE:

May be issued to *skilled workers, professionals, and other workers*.

- ◆ *Skilled workers* must be capable of performing skilled labor requiring at least two years training or experience.
- ◆ *Professional* must possess a baccalaureate degree or a foreign equivalent, and the petitioner must demonstrate that such a degree is the normal requirement for entry into the profession.
- ◆ The *other workers* category covers workers who are “capable of performing unskilled labor,” and who are not temporary or seasonal. No more than 10,000 visas per year can be distributed to *other workers*.

FOURTH PREFERENCE:

May be issued to certain special immigrants, including ministers, religious workers and others.

FIFTH PREFERENCE:

May be issued to persons who have between \$500,000 and \$3 million dollars to invest in a job-creating enterprise in the U.S. At least 10 U.S. workers must be employed by each investor. The amount of money can vary depending on which area of the country will benefit from the investment. If the investor foreign national fails to meet the conditions specified, he or she can lose permanent resident status.