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Updates on the H-1B Proclamation of September 19, 2025

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On September 19, 2025, President Donald Trump issued a proclamation that effectively acts as a travel ban for anyone outside of the United States who is seeking to enter or re-enter the United States on a new H-1B visa, unless a \$100,000 payment is made. The travel ban went into effect on September 21 and will remain for one year. On October 20, 2025, U.S. Citizenship and Immigration Services (USCIS) issued clarifying guidance related to the application of the \$100,000 payment.

The reach of this proclamation is limited. USCIS processing of an employer's H-1B sponsorship petition on behalf of a foreign national is a two-step process:

1. **First, USCIS determines eligibility for H-1B classification.**
2. **Second, USCIS reviews the employer's request for USCIS to take a particular action on the basis of the determination that a foreign national is eligible for H-1B classification. The requested actions include:**

Change the status, amend the stay, or extend the stay of a foreign national already in the United States, or

Notify the U.S. embassy or consulate (or, for Canadians, port of entry) to allow the foreign national to obtain a visa stamp to enter or be admitted to the United States.

The president's proclamation primarily affects those H-1B petitions who fall under (b), which include petitions for foreign nationals who are outside of the United States at the time their H-1B petition is filed and processed. This also includes cases where USCIS determines eligibility for H-1B classification but

where USCIS denies an employer's request for a change of status, amendment, or extension of stay on behalf of the foreign national. This may occur, for example, where USCIS finds that the foreign national failed to maintain valid immigration status.

Importantly, the \$100,000 payment does not apply to any current H-1B employee or foreign national who is in the United States in valid status. But it may affect some of those H-1B employees who require a new H-1B visa stamp in their passport. Any time an H-1B employee is outside of the United States or travels outside of the United States and seeks to re-enter the United States, then in most cases, the employee will require a valid H-1B visa stamp in their passport to return. The visa stamp is issued by a U.S. embassy or consulate abroad. Canadians do not require a visa stamp in their passport but are required to provide proof of H-1B petition approval to a U.S. Customs and Border Protection (CBP) inspection site upon entry.

Based on the information above and USCIS's guidance released on October 20, 2025, below is information on the application of the \$100,000 payment:

H-1B workers with currently pending H-1B petitions filed prior to September 21, 2025:

All petitions filed prior to September 21, 2025, inclusive of those requesting consular notification, as described above, will remain processing. No \$100,000 payment is required.

H-1B extension, amendment, change of employer, and change of status petitions: The \$100,000 payment does not apply to H-1B petitions where the foreign national is physically in the United States in valid immigration status at the time of filing and the employer appropriately requests USCIS to change the sponsoring H-1B employer, amend an H-1B employee's employment, extend the stay of the H-1B employee, or change a foreign national's status to H-1B status (e.g., a petition to change status from F-1 to H-1B).

H-1B petitions for foreign nationals who are currently outside of the United States: Any H-1B petition filed after September 21, 2025, on behalf of a foreign national who is outside of the United States at the time of filing is subject to the \$100,000 payment.

International travel for those in the United States in H-1B status:

Foreign nationals with a valid H-1B visa: International travel for those in possession of a valid H-1B visa does not require the \$100,000 payment. No valid H-1B visas are being revoked under this proclamation at this time.

Foreign nationals without currently valid visa stamps in their passports: The \$100,000 payment does not apply provided that the underlying approved H-1B petition is based on a request for an extension of stay, amendment, or change of status (i.e., the employer did not request consular/port of entry notification, as noted above).

Canadians: Canadians are exempt from needing to obtain a visa stamp in their passport. Canadians may travel internationally without the \$100,000 payment, provided that they present an approved H-1B petition based on a request for an extension of stay, amendment, or change of status (i.e., did not request consular/port of entry notification, as noted above) at the CBP inspection site.

H-4 visa holders: Family members with H-4 visas should be able to travel to and from the United States as normal.

USCIS has established a process to request an exemption from the \$100,000 payment based on circumstances where the Secretary of Homeland Security determines that a person's presence in the United States in H-1B status is in the national interest, that no U.S. worker is available to fill the role filled by the H-1B employee, that the H-1B worker does not pose a threat to the security or welfare of the United States, and that requiring the sponsoring employer to make the payment on the H-1B worker's behalf would significantly undermine the interests of the United States. USCIS has indicated that exceptions will only be granted in "extraordinarily rare" circumstances.

Husch Blackwell's Business Immigration and Global Mobility team offers a Resource Center with insights to help employers navigate the evolving immigration policy landscape.