

New Visa Rule *Distresses US Expatriates*

A new US visa rule, taking effect in August, is likely to substantially lengthen the amount of time that Americans living overseas must wait before bringing along their non-citizen spouses or children if they have to move home quickly. Helen Luk talks to expatriates and an immigration lawyer to understand what has been changed and how it may affect American families living overseas.

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A recent US visa rule change has left many American expatriates worried that they will have to wait significantly longer before they can relocate back home with their foreign spouses and children.

Before mid-August, if an American living overseas wanted to get a visa for his or her alien relative to return to the US, they could file the petition – known as Form I-130 – through US consulates, embassies, or the international offices of the US Citizenship and Immigration Services (USCIS).

In a move to cut costs, the Department of Homeland Security decided to centralize the filings. Beginning from August, overseas applicants living in countries without USCIS offices will have to mail their petitions to a central office in Chicago. The immigration agency says processing time is expected to take five months. Petitioners then have to apply to the US



State Department for the actual visa.

“This change will reduce inefficiencies, improve the ability of USCIS to manage its workload, and reduce the burden on DOS (Department of State),” according to a document posted on the Federal Register’s website.

Major hassle

One US immigration lawyer, however, decries the new practice as a “major hassle” for overseas American citizens who are on assignments and



Eugene Chow

simply want to bring their foreign national spouses back home.

Eugene Chow, principal of Hong Kong-based immigration consultancy Chow King & Associates, says in the past, the I-130 petitions were handled quickly and efficiently as there weren't many cases filed out of Hong Kong. But now everyone around the world sends their application to Chicago and approved petitions have to go to the National Visa Center before being re-routed to Hong Kong.

"Instead of a two- to three-month turnaround time, it will likely take nine to 12 months," Chow says. "The US government should be helping overseas US citizens return home with their foreign national spouses, not make them wait and endure a cumbersome and complicated process."

"Why should a US citizen living in Hong Kong, for example, be treated different from a US citizen

who happens to have the good luck to reside in Rome or Bangkok, or another jurisdiction that has an USCIS office?" Chow asks.

Chow says two of his clients - both American men married to Hong Kong wives - are seeking his help to study the new rule as they are hoping to kick-start the naturalization process for their wives and the I-130 petition is the first step.

"Of course they are feeling unhappy about the situation. But they are also powerless," he says.

Drop in the bucket

An American who lives in Kuala Lumpur with his Filipino wife and two children complains that little was done to alert US expatriates to the rule change, which was introduced after the State Department charged USCIS, for the first time, US\$3 million last year for helping the agency process overseas I-130 petitions.

"I didn't even find out about this change until we were actually in the States visiting family and my friend sent me an email saying this (I-130 petition) is going to change and it's like two weeks before it takes effect," says the expatriate, who works in the aviation industry and would only give his name as James. "I know these things are probably in the Federal Register for comment, but whoever looks at the Federal Register?"

James scoffs at the cost-saving measure as "a drop in the bucket when it comes to a trillion-dollar budget." But amid all the uncertainties, he decided to file an I-130 petition for his wife this month.

He and his family relocated from Hong Kong to Kuala Lumpur two years ago and are contemplating a move back to the United States in the next few years to get their 13-year-old daughter acclimated to US high schools. The son is 10 and both children were born in the US, so only his wife requires a visa.

"We don't know how long it will take or once you apply and get approval, how long before you have to use it [the visa]," he says. "I called the US embassy in

Kuala Lumpur and they said they don't have anybody who can answer those questions and they asked me to write an email, so I did that."

Consistent outreach

In a teleconference call with concerned expatriates a few days before the rule took effect, the USCIS said it had alerted more than 7,000 parties on its electronic mailing lists months ago and posted the change on its website in the Federal Register, according to a report by the New York Times. Edna Z. Ruano, a spokeswoman of the agency, insisted that "outreach on the issue has been consistent and transparent." She estimates that about 10,000 applicants will be affected.

USCIS only has field offices in 25 countries with six of them in Asia, including Bangkok, Beijing, Guangzhou, Manila, New Delhi and Seoul. The agency says certain petitions, such as medical emergencies, threats to personal safety, some adoptions, and military personnel facing new deployments with little notice, may still be allowed to go through US consulates or embassies, but overall, few exceptions will be granted.

Statistics from the Federal Register show that in the last fiscal year, the State Department processed 9,497 relative petitions in countries with no USCIS field offices and 6,576 in countries where the agency is located. In comparison, USCIS field offices handled 8,135 cases.

James says he first filed an I-130 form for his wife back in 1997 when they moved from Malaysia back to the States for 18 months and it only took a couple of months. "The onus was actually on us to get the police report, which took the longest time," he says.

Anything longer than a few months is a step backward from the past practice, James says, and he urges the US authorities to extend the visa's validity so as to allow greater flexibility for families in

planning their relocations.

"It's really hard to plan your life a year ahead of time," he says.

Difficult situation

Another Hong Kong-based American expatriate, who works in the energy industry but declines to be named, calls the new system "scary."

"Anything that requires eight to 12 months to process, versus the old one of three months, could be a real problem in scheduling schools, rental arrangements, and finances," he says. "Even five months is ridiculous and adds great financial costs, emotional stress, and uncertainty to a very complex family move."

He and his Asian wife have two girls, aged five and seven. Both were born in Hong Kong and attend international schools here but are US citizens. He is worried that he may lose his job and his family will get stuck in Hong Kong while awaiting the visa for his wife. The family plans to move back to New Hampshire in the long run.

"In this current economy, you don't know what's going to happen. I am not on an expatriate package and I am on local terms with a local company here," he says.

"I just don't see how I can live here without a job for eight months and maintain two households - one in the US and one here," he adds. "My kids will be out of school and my wife will be stranded somewhere. So it's a very, very difficult situation."

James says the new rule will likely make companies think twice before relocating staff with foreign national spouses and children back to the US.

"It may cause companies to be less flexible in how they assign people because if someone is already in Asia and they want to bring them back, they have to have this understanding that it could take up to a year to a year and a half," he says.

