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USCIS Publishes Final Rules Increasing Many Filing Fees

On May 30, 2007, the USCIS published in the Federal Register final rules that increase the filing fees for various petitions and applications. The adjusted fees will go into effect for applications postmarked after July 29, 2007.

New Fee Structure

The table below shows the current and new fees for the most common employment based petitions and applications:

Current and New Fees for Common Petitions/Applications			
Form No.	Current Fee	New Fee	Difference
I-129 (H-1B, L-1)	\$190	\$320	\$130
I-140 (Immigrant Visa Petition)	\$195	\$475	\$260
I-485 (Adjustment of Status)	\$325+\$70 Biometric fee	\$930 + \$60 Biometric fee	\$615
I-485 for children below the age of 14	\$225	\$600	\$375
I-765 (Employment Authorization Document)	\$160	\$0 (if filed with I-485)	-\$160
I-131 (Advance Parole)	\$170	\$0 (if filed with I-485)	-\$170

Increased Fees in the Adjustment of Status Context

The impact of the new fees for the typical combined filing of I-485 Adjustment of Status (AOS), I-131 Advance Parole (AP) and I-765 Employment Authorization Document (EAD) requires a deep analysis.

Currently, an adult pays a total of \$745 for an initial AOS/EAD/AP filing. This includes the I-485 filing fee of \$325, biometrics fee of \$70, I-131 filing fee of \$170, and I-765 filing fee of \$160. A child below the age of 14 pays a filing fee of \$225 for the I-485 and \$170 for the I-131 for a total of \$395. For most employers, the current filing fee is on average approximately \$650.

In contrast, the new combined AOS/AP/EAD filing fee is either the normal \$1010 or \$600 if under 14. For most employers, the average filing fee will be about \$900.

Thus, the average increase to the AOS/EAD/AP application package will be about \$250 (29%).

If an extension of the AP/EAD is needed either because of slow adjudication of the AOS or retrogression of the priority date while the AOS is pending, then the average increase will be more than recouped since extensions are free under the new fee schedule.¹

Typical Budgeting Impact

To see how the fee increases affect the overall immigration budget for a typical employer, it is helpful to track the immigration process

¹ For AOS applications filed prior to July 30, 2007, filing fees for EAD and AP renewals will continue to be collected at the new rate of \$340 and \$305 respectively.

of the typical H-1B foreign national employee under the current fee schedule and compare it to the new fee schedule.

Currently, the initial H-1B filing fees total \$2190 (\$190 for the I-129, \$1500 additional fee for large companies, and \$500 fraud prevention fee). The I-140 immigrant visa petition filing fee is currently \$195. As explained above, the average AOS fee is about \$650. For the entire process then, the filing fees total \$3035.

Under the new fee structure, the initial H-1B filing fees would total \$2320, the I-140 would be \$475 and the average AOS/AP/EAD package, as explained above, would be \$900. Total filing fees under the new schedule would be \$3695.

This is an increase of about 21% in filing fees for the typical H-1B person.

Filing fees, however, are only a fraction of a company's immigration budget, along with legal fees. The typical overall increase to a company's immigration budget will be about 5-8%.

The Littler Global professionals with whom you work will assist you in estimating the budget impact to your company.