

**WKG&J****WORMSER KIELY GALEF & JACOBS LLP**

## IMMIGRATION HIGHLIGHTS - JANUARY 2011



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### **Happy New Year!**

Greetings from the Immigration Practice Group at Wormser, Kiely, Galef & Jacobs LLP, and best wishes for a happy and healthy 2011! As always, we invite you to [contact us](#) throughout the year with any comments, questions, or suggestions.

### **H-1B Count**

As of December 31, 2010, the U.S. Citizenship and Immigration Services has received approximately 57,300 H-1B cap-subject petitions (out of the available annual quota of 65,000). In addition, the USCIS has received enough petitions for individuals with advanced degrees to meet the quota of 20,000. Individuals with advanced degrees can continue to apply for H-1B visas but will be counted under the regular quota until that quota has been filled.

As the H-1B quota will soon be reached – and since new H-1B visas will not be available until October 1, 2011 – we urge you to contact our office immediately if you are interested in sponsoring an H-1B worker.

As a reminder, the annual quota does not apply to individuals currently working in H-1B status in the U.S. who need to extend their stay or change employers, or to individuals seeking employment with institutions of higher education, nonprofit research organizations, government research organizations and certain related entities.

### **Immigration Focus of the New Congress**

Following last November's elections, the politicians now in control of the immigration oversight functions in the House of Representatives have signaled an intention to increase immigration enforcement while adding additional restrictions to our already-broken and overburdened immigration system. In addition to announcing an effort to stop children born in the U.S. from being granted U.S. citizenship, and requiring additional cooperation between local police and federal immigration officers, it is likely that we will see more efforts to restrict immigration on a number of fronts, including increased workplace enforcement and additional hurdles for employers hiring foreign workers. We will keep you posted on significant developments in future editions of *Immigration Highlights*.

### **New Export Control Questions on Form I-129**

A newly-revised Form I-129, which is used for H-1, L-1 and O-1 visa petitions, includes a requirement for employers to certify that they have reviewed the Export Administration Regulations and International Traffic in Arms Regulations, and state whether a license is required from the U.S. Department of Commerce or State before the company can release technology or technical data to those workers. Given the lack of guidance from the USCIS as to exactly what type of technology or technical data is covered under this provision, as well as the

complexity of those regulations, we advise clients to consult with their internal export control experts (if they have one) or to contact our office with any questions. This certification will be required as of February 20, 2011. Please see the [instructions to Form I-129](#) for additional information.

### **Consular Updates**

**India:** The American Embassy in New Delhi and Consulates in Mumbai, Chennai, Kolkata and Hyderabad are now accepting visa applications from throughout India, regardless of the applicant's home address or residence. See the [embassy's website](#) for details.

**Mexico:** The American Embassy in Mexico City has established new procedures for processing visas, including pre-interview collection of biometrics (fingerprints/photographs) and an interview waiver program for certain visa renewals. Additional information is available on the [embassy's website](#).

## **Spotlight On...**

### **WKGJ's TRUSTS & ESTATES DEPARTMENT**

WKGJ's Trusts and Estates Department is a cornerstone of the firm's overall practice. The attorneys in the department have a combined 100 years experience in the Trusts and Estates field and have extensive experience in all aspects of estate planning and administration, estate taxation, charitable trusts and foundations and general practice in the Surrogate's Court. They have knowledge and experience in assisting U.S. and non-U.S. citizens with all aspects of their estate planning needs, in addition to advising on estate and gift tax issues that may arise.

Eugene J. Callahan, the department head, is active in the Estate Planning Councils of New York City and Westchester County, and the New York State Bar Association. Gene is also admitted to the Bar in the State of Florida. Wayne L. Warnken, a partner, is recognized as a New York City "Super Lawyer"\*\*\*. Wayne is also active in the New York State Bar Association. Elizabeth L. Chamulak, our senior associate, is active in the Estate Planning Council of New York City, the New York State Bar Association, the New York Woman's Bar Association and has worked on pro bono assignments.

You can contact Gene at 212-573-0636 or [ecallahan@wkgj.com](mailto:ecallahan@wkgj.com); Wayne at 212-573-0610 or [wwarnken@wkgj.com](mailto:wwarnken@wkgj.com); and Liz at 212-573-0638 or [echamulak@wkgj.com](mailto:echamulak@wkgj.com).

\*\*\* Only five percent of attorneys in the New York area are accorded this honor each year by *New York Super Lawyers*, a Thomson Reuters publication. See *Super Lawyers* website for additional detail on their [attorney selection criteria](#).

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