Automatic Visa Revalidation - Skip the Daunting Visa Interview at the U.S. Consulate Abroad

Insights
7.24.13

Many global companies regularly send workers to train or attend meetings in Canada or Mexico. One issue often facing these employers is having to factor in the time and expense for their foreign workers to attend daunting visa interviews at the U.S. Consulate abroad to renew expired U.S. visas before being allowed back into the U.S. to resume their U.S. responsibilities. The Automatic Visa Revalidation Rule resolves this issue by permitting foreign nationals with expired nonimmigrant visa stamps to travel to Canada, Mexico or a contiguous territory for thirty days or less without obtaining a new visa for re-entry into the U.S.

In order to take advantage of the Automatic Revalidation Rule upon re-entry into the U.S., the foreign national employee must show that s/he has:

- maintained lawful nonimmigrant status in the U.S., such as a H-1B work visa, and intends to resume valid nonimmigrant status in the U.S.;
- a valid passport with an expired nonimmigrant visa stamp, such as an H-1B;
- an unexpired I-94 Arrival/Departure record endorsed by the Department of Homeland Security to show an unexpired extension of stay in a nonimmigrant status, such as an H-1B;
- a flight itinerary showing that s/he is applying for readmission after an absence not exceeding thirty days solely in a contiguous territory;
- not applied for a new visa at the U.S. Consulate while s/he was abroad;
- the status of not being a national of a country identified as supporting terrorism (nationals of Iran, Syria, Sudan, and Cuba are not eligible for automatic revalidation);
- an expired visa stamp (automatic revalidation does not apply to the Visa Waiver Program); and
- approval notices for extensions of stay to show that s/he is applying for readmission within the authorized period of extension of stay.

In the case of F-1 students and J-1 trainees, automatic revalidation applies to contiguous territory and adjacent islands other than Cuba. An M-1 student can only apply for automatic revalidation readmission after an absence of less than 30 days solely from contiguous territory.

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Contiguous territories are simply any country sharing a common boundary with the United States. Therefore, Canada and Mexico are the contiguous territories to the United States contemplated in the automatic visa revalidation regulation. Adjacent islands, however, are defined by statute and regulation. The Adjacent Islands are Anguilla, Antigua, Aruba, Bahamas, Barbados, Barbuda, Bermuda, Bonaire, British Virgin Islands, Cayman Islands, Cuba, Curacao, Dominica, the Dominican Republic, Grenada, Guadeloupe, Haiti, Jamaica, Marie-Galantine, Martinique, Miquelon, Montserrat, Saba, Saint Barthelemy, Saint Christopher, Saint Eustatius, Saint Kitts-Nevis, Saint Lucia, Saint Maarten, Saint Martin, Saint Pierre, Saint Vincent and Grenadines, Trinidad and Tobago, Turks and Caicos Islands, and other British, French and Netherlands territory or possessions bordering on the Caribbean Sea.

Although the U.S. Customs and Border Protection officers are trained on the Automatic Visa Revalidation Rule, not all officers apply it correctly. Therefore, employers should arm their foreign workers with a letter from their immigration attorney explaining the Automatic Revalidation Rule's application to the specific employee.

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