

Management Alert



Tips for Foreign Nationals Traveling During the Holiday Season

As the 2013-2014 holiday season rapidly approaches, many foreign nationals are making travel arrangements to visit family and friends abroad. This alert provides an overview regarding visa issuance and U.S. entry requirements. We also recommend reviewing our comprehensive memorandum for foreign nationals traveling internationally found [here](#).

General Travel Guidelines

Foreign nationals should review their travel documents and requirements in advance of departure to ensure possession of the appropriate materials to enter their country of destination and to return to the United States. Foreign nationals should anticipate comprehensive questioning by immigration officials when seeking to re-enter the U.S.

Passport and Visa Validity

Before traveling internationally, foreign nationals should verify that their passports and visas remain valid for re-entry into the U.S. Those who are exempt from the visa requirement who intend to enter the U.S. pursuant to the Visa Waiver Program should determine whether they must obtain advance permission to re-enter (as discussed below).

- Passport Validity – As a rule, a foreign passport must be valid for at least 6 months beyond the anticipated departure from the U.S.
- Visa Validity – A foreign national who must possess a visa stamp to re-enter the U.S. should be aware that the visa stamp must reflect the nonimmigrant visa status the foreign national seeks and must be valid (i.e., unexpired).
- Notice of Approval – A foreign national who is the beneficiary of any petition-based visa classification, such as an H-1B or L-1A/L-1B, must travel with the original Form I-797, Notice of Approval issued by United States Citizenship and Immigration Service (USCIS).
- Automatic Visa Revalidation – Most (but not all) individuals traveling to Canada or Mexico (only) who will stay fewer than 30 days and who hold a valid I-94 card may be able to re-enter the U.S. using an expired visa stamp. Please contact Seyfarth Shaw to determine whether a particular foreign national qualifies for Automatic Visa Revalidation.

Visa Stamp Issuance Procedures: Interviews, Security Checks, and Delays

Fraud prevention and related procedures at all consular posts worldwide have extended the processing time of the visa application process. Foreign nationals who must apply for a new visa stamp must therefore plan their international travel with these delays in mind.

- Personal Interview – Most visa applicants must apply in-person for their visa stamps. At the majority of consular posts, this requires scheduling a nonimmigrant visa appointment well in advance of the desired appointment date. During the busy holiday season, the “lead time” for interviews is typically 4 to 6 weeks. For more information on scheduling nonimmigrant visa appointments at all consular posts worldwide, please visit www.travel.state.gov.
- Visa Issuance Delays – Once an applicant appears for an interview, it typically takes the consular post 3 to 6 business days to process the visa application and return the applicant’s passport. However, in certain instances, the process may take as many as 2 to 3 months for additional administrative processing and related inquiries. The reasons underlying such delays are explained in the memo referenced in Paragraph 1.
- Security and Background Checks – When applying for a visa stamp, an applicant may be subjected to additional security and background checks based on the following factors:
 - Occupations in targeted fields (the Technology Alert List);
 - Appearance (i.e., “hits”) in national security and law enforcement databases, such as the Interagency Border Inspection System (IBIS); and,
 - Information found on Form DS-160.

Visa Waiver Program (VWP)

Citizens of certain countries are permitted to enter the U.S. for general business or tourist purposes for a maximum of 90 days without presenting an actual B-1/B-2 visa upon entry. All nationals and citizens of VWP countries must obtain travel authorization prior to seeking entry to the U.S. under the VWP. This authorization is obtained online through the Electronic System for Travel Authorization (ESTA), an Internet application administered by the Department of Homeland Security (DHS). The website address is <https://esta.cbp.dhs.gov>. The online system is free and requests basic biographic information as well as information regarding the travelers’ legal ability to enter the U.S. without a visa stamp.

Conclusion

Proper planning prior to undertaking international travel is always important. During the holiday season, such planning is even more critical given the additional volume of travelers who will visit U.S. consular posts and ports of entry. We urge you to contact Seyfarth Shaw to discuss your travel plans and particular visa and related needs.

By: *Jason E. Burritt* and *Dyann DelVecchio*

Jason E. Burritt is located in Seyfarth Shaw’s New York and D.C. offices and *Dyann DelVecchio* is located in the firm’s Boston office. For more information, please contact the Seyfarth attorney with whom you work or any *Business Immigration attorney* on our website.

www.seyfarth.com

Attorney Advertising. This One Minute Memo is a periodical publication of Seyfarth Shaw LLP and should not be construed as legal advice or a legal opinion on any specific facts or circumstances. The contents are intended for general information purposes only, and you are urged to consult a lawyer concerning your own situation and any specific legal questions you may have. Any tax information or written tax advice contained herein (including any attachments) is not intended to be and cannot be used by any taxpayer for the purpose of avoiding tax penalties that may be imposed on the taxpayer. (The foregoing legend has been affixed pursuant to U.S. Treasury Regulations governing tax practice.)

Seyfarth Shaw LLP Management Alert | November 20, 2013

©2013 Seyfarth Shaw LLP. All rights reserved. “Seyfarth Shaw” refers to Seyfarth Shaw LLP (an Illinois limited liability partnership). Prior results do not guarantee a similar outcome.