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hrreporter.com, February 6, 2003

Immigration changes and the impact for HR

U.S. visa requirements changing for Canadian permanent residents

By Nan Berezowski

The United States is going ahead with new visa requirements that will impact more than 500,000 Canadian permanent residents. Immigrants from more than 50 countries, most who in the past have been able to cross the border freely as Canadian citizens, will soon need visas to enter the U.S.

Security measures

The U.S. government said the new visa requirement is required to increase security and safeguard the U.S. Its position is that the new rule reflects the high security risk of people coming from countries where document fraud and abuse is high. Last November, Canadian Foreign Affairs Minister Bill Graham said he would encourage the Americans to back off the proposed visa rule. Although Canada has lobbied against the new visa requirements, the change, which came under consideration in the aftermath of the Sept. 11 attacks will become reality on March 17, 2003.

What employees are affected?

In the past the U.S. had exempted nationals from countries including Australia, the U.K., Singapore, Pakistan and India from normal visa requirements provided they were permanent residents of Canada. These nationals, many of who may have lived in Canada for years and consider themselves Canadian, may now need visas, issued by a U.S. consulate, in order to enter the states.

The first step from the HR vantage point is to understand how the new requirement will impact organizations. This means finding out which employees are Canadian permanent residents. As this information is not always required during the hiring process, it may not be in employee records. For this reason the best approach may be to alert all employees required to travel to the U.S. of the changes and ask those with concerns to approach HR for help.

The second step is to determine, in a practical sense, how the new requirement will affect each employee who is a permanent resident. But this step is not always easy. For instance, employees traveling with Indian, Pakistani, Sri Lankan or Jamaican passports will now need a visa in order to enter the U.S. for any purpose. But permanent residents

from visa waiver countries will not need visas if they are entering the U.S. for 90 days or less as visitors for business or pleasure. But, without exception, they will require a visa if the business travel is expected to be longer than 90 days as well as where work authorization (such as an "L" intra-corporate or "H" specialty occupation status) is in order.

Business consequences

Make no mistake — almost all Canadian permanent residents will soon need visas for business and work in the U.S. Without a visa endorsement in an employee's passport he or she will be turned back at U.S.-Canada border inspection and airport pre-flight Inspection facilities. For HR managers responsible for ensuring the cross-border travel of sales or technical personal, as well as managers and executives, the challenge will be to identify those affected and to ensure they obtain the required visa endorsement well in advance of the next assignment.

HR planning for the immediate future

As consular authorities anticipate an enormous increase in the number of visa applicants, and all applicants will under go security checks, visa processing is expected to take up to two months. In order to ensure the company meets its business expectations and to avoid employee embarrassment at being unexpectedly turned away at the airport or border, HR managers should consider instituting a program that facilitates the timely submitting of visas applications at the consulate. But don't delay — it is best to plan as far ahead as possible.

Concerned about the volume of inquires, the consulate has discouraged people from contacting them for information. But early informal indicators are that in some instances consular authorities will exercise discretion in order to assist those with immediate travel plans. It may also be possible to apply for a visa in advance of the March 17 implementation date.

In every instance a carefully prepared and completed visa application with accompanying documentation should be submitted to the U.S. consulate responsible for the applicant's place of residence. As consular procedures can be detailed, and mistakes are likely to result in delay, it is important that both the HR manager and employee are aware of what is required. Generally, each application should include:

- An explanation of the purpose of travel to the US ;
- A completed DS-156 form;
- A completed DS-157 form (all male applicants between the age of 16-45);
- A valid passport;
- Evidence of Permanent Residence status in Canada;
- A current photo; and

- The requisite filing fee.

Although it is still early to anticipate exactly how the consulate will deal with the influx of visa applications, it looks as if applicants with sufficient time will be able to mail in their applications. But where the employee is required to travel in the immediate future, special arrangements will need to be made and mailing applications might not be the best route to take..

HR planning for the long term

Long-term planning is also a consideration. For instance, permanent residents should investigate their eligibility for Canadian citizenship. Although the decision to become a Canadian citizen is a personal one, HR managers have a vested interest in providing information to employees that, in turn, allows them to assess their eligibility for citizenship. Citizenship yields clear benefits to the company. In addition to the regular benefits and responsibilities of citizenship, naturalized Canadian citizens will not be subjected to the new visa requirements. In short, assisting employees with the citizenship process will reduce the need for repeat consular visas and ultimately reduce the cost associated with cross-border assignments. But since a tougher Canadian citizenship act is in the works, the best time to consider making a citizenship application may well be now — before the law changes.

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