

IMMIGRATION: Working in America

A Primer on Family-Based Visa Priority Dates

by Becki Young

Each month the US Department of State publishes a list of immigrant visa priority dates that will become current in the following month at http://travel.state.gov/visa/bulletin/bulletin_1360.html.

What are immigrant visa priority dates, and what do they mean for you?

U.S. laws limit the number of immigrants admitted to the country each year. The annual limit for total number of legal immigrants is 675,000. This annual limit is divided into three main categories: family sponsored (in which a minimum of 226,000, and a maximum of 480,000 immigrants can be admitted each year), employment-based (in which a minimum 140,000 immigrants will be allowed each year), and diversity visa (in which 55,000 immigrants will be allowed each year). In addition to the divisions by category, a "per country cap" limits the total number of family-sponsored and employment-based immigrants that may come from any one country in a given year to seven percent.

Each preference class also has its own quota, in the family based categories these are:

First: Unmarried Sons and Daughters of Citizens: 23,400 plus any numbers not required for fourth preference.

Second: Spouses and Children, and Unmarried Sons and Daughters of Permanent Residents: 114,200, plus the number (if any) by which the worldwide family preference level exceeds 226,000, and any unused first preference numbers:

A. *Spouses and Children:* 77 percent of the overall second preference limitation, of which 75 percent are exempt from the per-country limit;

B. *Unmarried Sons and Daughters (21 years of age or older):* 23 percent of the overall second preference limitation.

Third: Married Sons and Daughters of Citizens: 23,400, plus any numbers not required by first and second preferences.

Fourth: Brothers and Sisters of

Adult Citizens: 65,000, plus any numbers not required by first three preferences.

Depending on the allotment of visa numbers throughout the year, these limits may be adjusted accordingly (fall down, "fall up" or "fall across"). In addition, immigration bills (such as authorization to recapture unused visas) may temporarily change the caps for certain categories.

What happened to the Family Based visa numbers in 2010?

Let's take the Family Based 2A category, for spouses and unmarried children of green card holders. In 2010, this category moved ahead at an astonishing rate. In January 2010 it was at January 1, 2006 (a four year backlog); by December it was at August 1, 2010 (a backlog of only four months). In other words, this category advanced by nearly four years during a one year period.

As of January 2011, the Family Based 2A category will retrogress (move backward) to January 1, 2008 (a three year backlog). What is going on?

Essentially, the number of people who wanted to immigrate in the Family based 2A category in 2010 was low. Because of long delays in this category some applicants were no longer eligible (for example, if the person who petitioned for them became a U.S. citizen, or if they divorced due to the long separation from their spouse, they would no longer fit into this category), and some applicants chose not to move ahead with their cases (perhaps due to the economy). If the Department of State does not use the minimum allotment of visa numbers in a year, those numbers will be wasted; in order to avoid this situation they advanced the priority dates rapidly to make more people eligible to apply.

What will happen in 2011?

This rapid advance in Family Based 2A priority dates allowed thousands of new adjustment of status cases and consular immigrant visa cases to proceed in 2010, and thus the priority dates will retrogress again in 2011. Those individuals whose priority dates are current in December 2010, and not in January 2011, must have completed immigrant visa processing by the end of 2010, or else they will have to get back in line.

If the immigrant visa cannot be approved by the end of December, applicants will need to wait until the priority date is within their established cut-off date to receive their immigrant visas.



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