



## I-797 APPROVAL NOTICE AND TRAVEL ADVISORY

This advisory is intended to address several critical travel issues related to your I-797 Approval Notice from the U.S. Citizenship and Immigration Services (USCIS). Please review the information below carefully and contact our office if you have any specific questions about the way the rules on international travel apply to your case.

**The I-797 Approval Notice is not a travel document:** When the USCIS approves an H-1B, L-1 or any other nonimmigrant visa petition, it issues an I-797 Approval Notice. In addition to providing the validity dates, the Notice indicates whether your status has been changed, extended or cabled to a U.S. consular post abroad. If your status has been changed or extended then the notice will have a new I-94 card printed at the bottom of the form. Except for citizens of Canada, who are exempt from the visa requirement, the I-797 is not considered a travel document and cannot be used to re-enter the United States after a trip abroad. H-1B workers who have changed employers may use the new I-797 together with a previously issued H visa to travel as long as the H visa stamp continues to be valid. If your case has been approved as a "cable notification" then the I-797 approval notice will not take effect until you are admitted to the U.S. under the terms of the new I-797. This will most likely involve a trip to the U.S. consulate to obtain a visa stamp. The remainder of this advisory contains information you will need to consider when booking a visa appointment at a U.S. consulate.



**Automatic Revalidation:** Under automatic revalidation, a person who has expired visa stamp can still travel to contiguous territories, including Canada and Mexico, for periods of up to 30 days. In order to take advantage of automatic revalidation, you must present the expired visa along with a current I-797 approval notice. This provision is not available for nationals of the following countries: Cuba, Iran, Iraq, Libya, North Korea, the Sudan and Syria. Also, automatic visa revalidation is not available to anyone who has traveled to Canada or Mexico to obtain a new U.S. visa stamp.

**Schedule an appointment at a U.S. consulate during your next trip abroad:** If you have an I-797 Approval Notice and you are outside the United States, then you will have to apply for a visa stamp prior to entering the country. If you are currently in the United States, you will have to apply for a new visa stamp during your next trip abroad. For a list of U.S. consulates, go to <http://www.usembassy.gov/>. Most U.S. consulates will allow you to book the appointment over the phone or on-line. In-person interviews are generally required for applicants who are 14-79 years old. When scheduling an appointment, you should include all family members applying with you in the process. Expedited appointments for urgent situations are available on a limited basis at most consulates.



**Verify amount and payment process for visa application fees:** Visa fees charged by U.S. consulates include a machine readable visa fee and, in some cases, a visa reciprocity fee and courier fee. You should check the appropriate U.S. consulate's website to determine the visa application fees for your case and to verify the proper method of payment. In most cases, the fees must be paid in advance over the phone, at a local bank or post office. Additional visa reciprocity fees apply to nationals of certain countries and can normally be paid at the time of the interview. A list of visa reciprocity fees can be found at the U.S. State Department website.

### Bring all the necessary documents with you to the U.S. consulate:

Each U.S. consulate's website contains a discussion of the interview scheduling procedure and a list of documents that should be presented during the visa interview. The documentation required can vary depending on the consulate, but generally includes:

- Appointment confirmation email from consulate.
- Original I-797 Approval Notice.
- Passport (ideally valid for the I-797 validity period) beyond the expiration date.
- Digital color passport-size photo with white background. The photo must be uploaded to the DS-160 form on-line.
- Copy of nonimmigrant petition and supporting documents submitted on your behalf by your employer to the USCIS. We have submitted a full duplicate of your petition to the USCIS, which has been scanned and is accessible to U.S. consulates through their computer system.
- Copy of DS – 160 form completed on-line prior to interview. The form can be found online at: <https://ceac.state.gov/genniv/>.
- Receipt for payment of all visa application fees paid in advance at a bank, post office or on-line.
- Additional documents: U.S. consulates will sometimes request additional documentation, including a recent pay stub, current employment confirmation letter and original educational credentials. Family members applying for dependent visas such as the H-4 or L-2 must present an original or certified copy of the birth and marriage certificates at the time of the interview.

### Allow enough travel time for the issuance of the visa:

Your consular appointment should be booked in advance as there are often backlogs. We suggest checking the consular at the Department of State website prior to making your travel plans. After the interview it can take up to seven (7) business

days for the consulate to issue the visa and return your passport to you. In a small number of cases, consular procedures require extra security checks that can further delay the issuance of the visa by weeks or even months. Some consulates allow you to pick up your approved visa in person, while others return your passport by mail or special courier.

**Visa Appointments in Canada/Mexico:** As an alternative to securing a visa stamp during your next trip abroad, you may want to consider booking an appointment at a U.S. consulate in Canada or Mexico. The consulates in Canada and Mexico routinely issue visas to non-Canadian/Mexican nationals. While the appointments sometimes have to be booked several months in advance, the consulates have adopted streamlined procedures that reduce the overall visa wait time. Depending on your country of nationality, you may need a visa to enter Canada or Mexico to attend your visa interview.

### Restrictions on third-country national processing:

Please also note that third-country national processing (applying for a visa at a consulate other than in your home country) is not available for people who have been out-of-status in the United States and nationals of countries designated as state sponsors of terrorism. A current list of countries designated as state sponsors of terrorism can be viewed online at the U.S. State Department website.

### Verify information on your I-94 card during each entry:

Each time you present your visa for entry into the United States, the U.S. Customs and Border Protection (CBP) will give you a white I-94 card. On the card, the inspector will write your visa status and expiration date. The I-94 card is extremely important because it controls your status in the United States. Mistakes by the CBP can happen, so you should pay close attention to make sure the expiration dates on the I-94 card match the dates listed on your I-797 Approval Notice. A mistake on the I-94 card may cause you to violate your status and even subject you to removal, so bring any mistakes to the attention of the CBP officer immediately.

**If you have any questions regarding this fact sheet, please contact the Sidley lawyer with whom you usually work.**

### The Immigration Practice of Sidley Austin LLP

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