Office of Communications

U.S. Citizenship and Immigration Services

News Release

Dec. 8, 2008

USCIS PUBLISHES NEW RULE FOR NONIMMIGRANT VICTIMS OF HUMAN TRAFFICKING AND SPECIFIED CRIMINAL ACTIVITY

WASHINGTON – U.S. Citizenship and Immigration Services (USCIS) announced today an interim final rule that will allow "T" and "U" nonimmigrants to adjust their status and become lawful permanent residents. The interim final rule implements the provisions of the Victims of Trafficking and Violence Protection Act of 2000, and will take effect 30 days after publication in the *Federal Register*.

"The action we are taking will further humanitarian interests by protecting victims of human trafficking and victims of other serious crimes," said USCIS Acting Deputy Director Mike Aytes. "We also believe that law enforcement's ability to investigate and prosecute crimes is enhanced when we can provide important immigration benefits to victims."

The "T" visa is a nonimmigrant classification for people who are victims of a severe form of human trafficking. The "U" visa status is a nonimmigrant classification for victims of certain crimes who are willing to assist government officials in the investigation of the criminal activity. In order to apply for an adjustment of status, a nonimmigrant currently within the "U" visa status must have been physically present in the United States for a continuous period of at least three years since the date of admission. Nonimmigrant individuals in the U.S. under a "T" visa status are required to have three years of continuous presence in the United States or a continuous period during an investigation or prosecution of the acts of trafficking. Nonimmigrant individuals holding a "T" visa will also need a certification from the Attorney General stating that the investigation or prosecution is complete.

Both "T" and "U" nonimmigrants must be in valid nonimmigrant status at the time of application. USCIS can adjust the status of up to 5,000 "T" visa holders annually. This cap does not apply to family members of the principal "T" nonimmigrant status holder. There is no numerical cap on adjustment of status for "U" nonimmigrants.

The interim final rule is currently available for public review at www.uscis.gov and has been submitted to the Federal Register for publication. The public may submit comments at www.regulations.gov for 60 days following publication. USCIS will address comments in the final rule.

– USCIS –

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U.S. Citizenship and Immigration Services

USCIS DA A CONOCER NUEVO DICTAMEN PARA NO INMIGRANTES VICTIMAS DE TRAFICO HUMANO Y CIERTAS ACTIVIDADES CRIMINALES

Washington, 8 de diciembre de 2008 - El Servicio de Ciudadanía e Inmigración de Estados Unidos, (USCIS, por sus siglas en inglés) anunció que permitirá a personas en el país con visas "T" y "U" convertirse en residentes legales permanentes como parte de un dictamen final interino. Este dictamen se basa en el Acta de Protección de las Víctimas de Tráfico y Violencia del año 2000, y entrará en vigor 30 días después de su publicación en el Registro Federal.

"Esta decisión permitirá amparo humanitario y protegerá a las víctimas de tráfico humano y otros crímenes serios", afirmó el Director Interino en Funciones del USCIS, Mike Ayes. "A su vez, este tipo de beneficio migratorio a las víctimas permite que los mecanismos de ley de la nación tengan la habilidad de mejor investigar y procesar actos criminales".

La visa "T" es una clasificación de no inmigrante para personas que son víctimas de una forma severa de tráfico humano. El estatus de visa "U" es una clasificación de no inmigrante para víctimas de cierto tipo de crímenes que están dispuestos a ayudar a oficiales del gobierno a investigar la actividad criminal. Para que un no inmigrante bajo a visa "U" pueda solicitar el ajuste de estatus a la residencia legal permanente, debe haber estado físicamente presente en Estados Unidos por un período de al menos tres años consecutivos desde la fecha de entrada al país. Los individuos no inmigrantes en Estados Unidos bajo el estatus de visa "T" deben haber estado presentes en el país por tres años consecutivos o durante el período por el que se extienda la investigación o el procesamiento de los actos de tráfico. Los individuos no inmigrantes con una visa "T" necesitarán también una certificación del Fiscal General de Estados Unidos que establezca que la investigación o el procesamiento han sido completados.

Los no inmigrantes bajo ambas clasificaciones, T" y "U" deben estar en un estatus válido de no inmigrante al momento de la solicitud. El USCIS puede ajustar anualmente el estatus de hasta 50,000 poseedores de estas visas. Este límite no aplica a familiares del poseedor principal no inmigrante del estatus "T". No existe limite para el ajuste de los no inmigrantes con visa "U".

El dictamen final interino está disponible para la revisión del público en www.uscis.gov y pronto será publicado en el Registro Federal. El público podrá ofrecer sus comentarios en www.regulations.gov durante los 60 días posteriores a la fecha de publicación. USCIS abordará comentarios en el dictamen final.

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U.S. Citizenship and Immigration Services

Fact Sheet

Dec. 9, 2008

T & U RULE SETS PROCEDURES FOR QUALIFYING FAMILY MEMBERS TO OBTAIN LAWFUL PERMANENT RESIDENCE

U.S. Citizenship and Immigration Services recently published an interim final rule that allows T and U nonimmigrants to adjust status to become lawful permanent residents.

The T nonimmigrant status (also known as the 'T' Visa) was created to provide immigration protection to victims of a severe form of trafficking in persons. The U nonimmigrant status (or 'U' visa) is set aside for victims of crimes who have suffered mental or physical abuse because of the crime and who are willing to assist law enforcement and government officials in the investigation of the criminal activity.

The rule also establishes a two-stage application process for qualifying family members who have never held U nonimmigrant status to obtain lawful permanent residence.

Questions & Answers

Q: What are the eligibility requirements for qualifying family members who have never held U nonimmigrant status to be granted permanent resident status?

A: The statute allows USCIS to extend these derivative benefits to spouses, children, and parents based upon their relationship to the principal U ("U-1") nonimmigrant if:

(1) The qualifying family member was never admitted to the U.S. in U nonimmigrant status, and
(2) It is established that either the family member or the U-1 principal applicant would suffer extreme hardship if the qualifying family member is not allowed to remain in or be admitted to the U.S.

Q: What are the procedures for such qualifying family members to apply for lawful permanent residence?

A: The U-1 status holder must file an immigrant petition on the new Form I-929, Petition for Qualifying Family Member of a U-1 Nonimmigrant. If the I-929 is approved on their behalf, qualifying family members in the U.S. may file Form I-485, Application to Register Permanent Residence or Adjust Status. Qualifying family members outside the U.S. may visit a U.S. embassy or consulate to obtain their immigrant visas.

Q: Can a U-1 nonimmigrant file an I-929 on behalf of a sibling?

A: No. According to the statute, only the spouse, children, and parents (if the petitioner is under 21) of a U-1 nonimmigrant are eligible.

Q: When can a U-1 nonimmigrant file an I-929 on behalf of a qualifying family member?

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A: U-1 nonimmigrants may file the I-929 concurrently with, or at any time after they have filed, their Form I-485 based upon their U status.

Q: Can the I-929 beneficiary file his/her I-485 concurrently with the I-929?

A: No. Only the petitioner can file his/her I-485 concurrently with the I-929.

Q: Can the I-929 be approved before the petitioner's I-485 is approved?

A: No. The petitioner's I-485 must be approved prior to the approval of the I-929. If the petitioner's I-485 is denied, the I-929 will automatically be denied.

Q: Is a biometric fee required for the I-929?

A: No. The only fee required is the filing fee.

Q: Can the filing fee be waived?

A: Applicants who can show they are financially unable to pay specific fees may submit an application for a fee waiver. The decision to grant such waivers lies within the sole discretion of USCIS. Further guidance on fee waivers is found on the USCIS Web site at http://www.uscis.gov/feewaiver.

Q: If the petition is approved, what status is given to the beneficiary?

A: Approval of the I-929 petition does not confer status upon the beneficiary.

Q: Does approval of the petition grant employment authorization?

A: No. Approval of the petition only makes the beneficiary eligible to apply for adjustment of status.

Q: Is there an annual limit on the number of I-929 beneficiaries who can be approved?

A: No. There is no numerical limitation.

Q: Can a T visa holder file an I-929 on behalf of his or her family members?

A: No, Form I-929 may only be filed by a U-1 status holder on behalf of eligible family members.