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## **H-1 and L-1 Visa Petition Filing Fees Increased ? Ongoing Updates if Needed**

### **H-1 and L-1 Visa Petition Filing Fees Increased ? Ongoing Updates if Needed** <sup>[1]</sup>

Submitted by Rajiv S. Khanna on Dec 19th 2015

**12 January 2016**

This is the latest release from USCIS. I think they are misreading the fees requirement. The law seemed to require higher fees only for L-1 employee counts (see my highlighted comments below under 19 December 2015 entry). The current USCIS release counts both L-1 and H-1 employees even for H-1 filing fees. We will wait and see if this clarified

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The Consolidated Appropriations Act, 2016 (Public Law 114-113), signed into law by President Obama on December 18, 2015, increases fees for certain H-1B and L-1 petitioners. These petitioners must submit an **additional fee of \$4,000 for certain H-1B petitions and \$4,500 for certain L-1A and L-1B petitions postmarked on or after December 18, 2015.**

**The additional fees apply to petitioners who employ 50 or more employees in the United States, with more than 50 percent of those employees in H-1B or L (including L-1A and L-1B) nonimmigrant status. These petitioners must submit the additional fees with an H-1B or L-1 petition filed:**

- **Initially to grant status to a nonimmigrant described in subparagraph (H)(i)(b) or (L) of section 101(a)(15) of the Immigration and Nationality Act; or**
- **To obtain authorization for a nonimmigrant in such status to change employers.**

This fee is in addition to the base processing fee, Fraud Prevention and Detection Fee, American Competitiveness and Workforce Improvement Act of 1998 fee (when required), as well as the premium processing fee, if applicable. Public Law 114-113 fees will remain effective through September 30, 2025.

USCIS is in the process of revising [Form I-129, Petition for a Nonimmigrant Worker](#) <sup>[2]</sup> and [Form I-129S, Nonimmigrant Petition Based on Blanket L Petition](#) <sup>[3]</sup> to reflect the provisions of Public Law 114-113. Petitioners should continue to complete **Item Numbers 1.d. and 1.d.1 of Section 1** of the H-1B and H-1B1 Data Collection and Filing Fee Exemption Supplement (Page 19 of Form I-129) and **Item Numbers 4.a. and 4.b.** of the L Classification Supplement (Page 22 of Form I-129).

USCIS may begin rejecting petitions received on or after Feb. 11, 2016 that do not complete **Item Numbers 1.d. and 1.d.1 of Section 1** of the H-1B and H-1B1 Data Collection and Filing Fee Exemption Supplement and **Item Numbers 4.a. and 4.b.** of the L Classification Supplement, or include the additional Public Law 114-113 fee, if applicable. During the 30 day period immediately following this web alert, USCIS may issue a Request for Evidence (RFE) to determine whether the additional fee applies to the petition. To avoid an RFE, petitioners should complete the questions on the Form I-129 noted in the paragraph above and submit the applicable fee when required. Because an RFE will be issued for the fee, rather than a rejection for the omission of the fee, USCIS will maintain the original filing date as the receipt date. Petitioners should wait to respond to the RFE before sending in the additional fee or an explanation of why the new fee does not apply.

If you previously submitted a petition with the additional fee and believe the fee was not required, please contact the National Customer Service Center at [800-375-5283](tel:800-375-5283) <sup>[4]</sup> (TDD for the deaf and hard of hearing: [800-767-1833](tel:800-767-1833) <sup>[5]</sup>).

## 23 December 2015

It is being reported that consulates have already started collecting the higher filing fees for blanket L-1 applications. Immigration Lawyers Association has requested USCIS to provide guidance on how they will handle the cases that are already in the mail and to provide some grace period for implementation. In my humble opinion, USCIS has to start collecting the fees immediately. That is the will of the Congress. USCIS has no power to delay the collection. The best they can and probably will do is to accept the new filings with the old fees and then send a request for additional fees. What a mess! Welcome to the backdoor politics where budget is misused to ?reform? the laws.

## 19 December 2015

The H-1 and L-1 filing fees have been increased under the 2016 Budget.

1. If you, the employer have a workforce of **50 or more employees** in the USA; AND
2. Of them more than 50% are nonimmigrant employees (I have explained the calculation below) in the USA; THEN
3. The USCIS fees for new applications as well as extensions are going up for all H-1 (increased by \$4,000) and L-1 (increased by \$4,500).

### L-1 Fees Calculation:

The calculation of nonimmigrant employees includes both H-1B and L-1 employees.

### H-1 Fees Calculation:

For some odd reason, the text of the Act (quoted below) counts only L-1 employees, not H-1B employees. I think this is a typo and will probably be corrected by a follow up technical corrections act of some kind that will then bring it in line with L-1 calculations. **Then, again, this may well be deliberate. If so, H-1B petition fees will NOT be affected, unless you have a substantial number of L-1 employees. Let us wait and see what USCIS says.**

They will be scrambling to implement the new fees.

"(a) **TEMPORARY L-1 VISA FEE INCREASE.** Notwithstanding section 281 of the Immigration and Nationality Act (8 U.S.C. 1351) or any other provision of law, during the period beginning **on the date of the enactment of this section and ending on September 30, 2025**, the combined filing fee and fraud prevention and detection fee required to be submitted with an application for admission as a nonimmigrant under section 101(a)(15)(L) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(L)), **including an application for an extension** of such status, **shall be increased by \$4,500** for applicants that **employ 50 or more employees in the United States** if more than 50 percent of the applicant's employees are non-immigrants admitted pursuant to subparagraph (H)(i)(b) or (L) of section 101(a)(15) of such Act. ?

**(b) TEMPORARY H-1B VISA FEE INCREASE.** Notwithstanding section 281 of the Immigration and Nationality Act (8 U.S.C. 1351) or any other provision of law,

during the period beginning on the date of the enactment of this section and ending on September 30, 2025, the combined filing fee and fraud prevention and detection fee required to be submitted with an application for admission as a nonimmigrant under section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(i)(b)), including an application for an extension of such status, **shall be increased by \$4,000** for applicants that employ 50 or more employees in the United States if more than 50 percent of the applicant's employees are nonimmigrants described in section 101(a)(15)(L) of such Act."

## Nonimmigrant Visas:

[L Visa](#) <sup>[6]</sup>

[H-1 Visa](#) <sup>[7]</sup>

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**Source URL (retrieved on 20 Sep 2020 - 08:28):** <https://immigration.com/blogs/h-1-and-l-1-visa-petition-filing-fees-increased-%E2%80%93-ongoing-updates-if-needed>

### Links:

[1] <https://immigration.com/blogs/h-1-and-l-1-visa-petition-filing-fees-increased-%E2%80%93-ongoing-updates-if-needed>

[2]

<http://links.govdelivery.com/track?type=click&enid=ZWFzPTEmbWFpbGluZ2lkPTlwMTYwMTEyLjUzNjY5OTAx129>

[3]

<http://links.govdelivery.com/track?type=click&enid=ZWFzPTEmbWFpbGluZ2lkPTlwMTYwMTEyLjUzNjY5OTAx129s>

[4] tel:800-375-5283

[5] tel:800-767-1833

[6] <https://immigration.com/visa/nonimmigrant-visas/l-visa>

[7] <https://immigration.com/visa/nonimmigrant-visas/h-visa/h-1-visa>