

USCIS INCREASES FEES FOR EMPLOYER-BASED PETITIONS

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US Labor, Employment, and Workplace Safety Alert

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On 30 January 2024, the US Citizenship and Immigration Services (USCIS) published a [final rule](#) (Final Rule) increasing the premium processing fee from US\$2,500 to US\$2,805, increasing filing fees for I-129 and I-140 employment-based petitions, and imposing a new Asylum Program Fee for each Form I-129 and I-140 filed by employers. The primary motivation for these new fees is to enable USCIS to recover its operating costs more fully. Unlike many other federal agencies, 96% of the USCIS budget is derived from user fees, while only about 4% is from congressional appropriations. By adjusting the fees, USCIS aims to support timely processing of new applications. In publishing the Final Rule, USCIS noted that the fee increases are essential to recover operating costs, expand humanitarian programs, provide federally mandated pay raises to its current employees, and hire additional staff.

The increase in filing fees will take effect on 1 April 2024; however, the increase in premium processing fees will be effective on 26 February 2024.

The following chart outlines the current and new government filing fees for the most commonly used employment-based petitions and related applications. Further, the chart details the difference in the filing fee price for small and nonprofit employers and online and paper filings. Small employers are those with fewer than 25 full-time-equivalent employees. More information as to the new fee schedule may be found [here](#).

Form / Visa Type	Type of Filing	Current Fee	New Fee
I-129 H-1	Small employers and nonprofits All other employers	US\$460 US\$460	US\$460 US\$780
I-129 L	Small employers and nonprofits All other employers	US\$460 US\$460	US\$695 US\$1,385
I-129 O, Nonimmigrant Workers	Small employers and nonprofits All other employers	US\$460 US\$460	US\$530 US\$1,055
I-129, Petition for	Small employers and	US\$460	US\$510

Nonimmigrant Worker: E, H-3, P, Q, R, or TN	nonprofits All other employers	US\$460	US\$1,015
I-140, Immigrant Petition	All employers	US\$700	US\$715
I-539, Application to Extend/ Change Nonimmigrant Status	Online Paper	US\$370 US\$370	US\$420 US\$470
I-765, Application for Employment Authorization	Online Paper	US\$410 US\$410	US\$470 US\$520

Below is a concise summary of the key provisions in the Final Rule relevant to employer-based petitions:

PREMIUM PROCESSING SERVICE (FORM I-907) TIMEFRAME EXTENSION AND FEE INCREASE (EFFECTIVE 26 FEBRUARY 2024)

- The premium processing service allows employers to expedite the adjudication of certain applications, reducing processing times from months to weeks.
- Timeframe Extension: Following the Final Rule, the premium processing timeframe will expand from 15 calendar days to 15 business days.
- Fee Increase: This fee will increase from US\$2,500 to US\$2,805 for I-129 and I-140 forms. H-2B and R-1 I-129 form fees will increase to US\$1,685.

NEW ONE-TIME ASYLUM PROGRAM FEE (EFFECTIVE 1 APRIL 2024)

- USCIS created a new fee to support the US asylum system and enhance efficiency. Employers must now pay a one-time Asylum Program Fee of US\$600 for each Form I-129 and I-140 they file.
- Small employers will also be required to pay an Asylum Program Fee but at a discount of US\$300.
- Nonprofits will be exempt from paying the Asylum Program Fee.

FILING FEES INCREASE (ALL FILING FEE COST CHANGES WILL BE EFFECTIVE 1 APRIL 2024)

- USCIS has adjusted several filing fees for the first time since 2016. Notable changes include:

- I-129, Petition for H-1B: This petition is typically used for specialty occupations such as engineering, information technology, medicine, and other professions requiring specialized knowledge and skill. The fee has increased by 70%, now standing at US\$780.
- I-129, Petition for L Nonimmigrant Workers: This petition is usually used for intracompany transferees, allowing multinational companies to transfer employees from foreign offices to US branches. The fee has risen by 201%, reaching US\$1,385.
- H-1B Cap: The registration fee will increase to US\$215 per registration, but the fee will remain at US\$10 per registration for the fiscal year 2025 cap registration period, which runs from 6 March 2024 to 22 March 2024.

LOWER FEES FOR 501(C)(3)S AND SMALL EMPLOYERS

- 501(c)(3) nonprofits and employers with 25 or fewer full-time-equivalent employees will pay lower filing fees than the average employer.
- The fee for H-1B petitions filed by small employers and nonprofits remains unchanged at US\$460.
- I-140, Immigrant Petition for Alien Workers, and I-129, Petition for Nonimmigrant Worker: E (Treaty Traders and Investors), H-3 (Trainee), P (Performing Artist or Athlete), Q (Cultural Exchange), R (Religious Workers), and TN (NAFTA) rose at a lower rate for small businesses and nonprofits.

LOWER FEES FOR FILING ONLINE

- To encourage online filing, USCIS will offer a US\$50 filing fee discount for some immigration benefit requests filed online.

END OF ADJUSTMENT OF STATUS BUNDLED FILING FEE

- When an applicant files for adjustment of status, the cost of the I-485 covers the filing cost for the I-765, Application for Employment Authorization (EAD) and Form I-131, Advanced Parole application. Under the new rule, the previously bundled EAD and application for advanced parole will now each have a standalone filing fee.
- Applicants who wish to file for EAD or advanced parole alongside their adjustment of status application will incur an additional US\$260 or US\$630 filing fee, respectively.

BIOMETRIC FEE

- The Biometric Fee will now be included in the new base filing fee for adult applicants.

As always, our Immigration practice group can assist with any questions or concerns related to these fee adjustments as well as other immigration issues.

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