



## ADVISORY

December 13, 2000

### INS Reminds Employers of H-1B Fee Change

The Immigration and Naturalization Service (INS) reminds employers that any H-1B petition received by INS as of December 18, 2000, must be accompanied by a \$1,000 fee. In 1998, the American Competitiveness and Workforce Improvement Act established an additional \$500 fee for H-1B petitioners. That fee was increased to \$1,000 in legislation passed on October 17, 2000. (P.L. 106-311)

**All H-1B petitions received by INS on or after December 18, 2000, and before October 1, 2003, must be accompanied by a \$1,000 fee in addition to the \$110 filing fee.** The \$1,000 fee will be used to help U.S. citizens, legal permanent residents and other U.S. workers with job training, low-income scholarships, grants for mathematics, engineering or science enrichment courses administered by the National Science Foundation and the Department of Labor, and for processing and enforcement.

Certain employers are exempt from paying the \$1,000 fee, including any employer that is:

- A primary or secondary education institution,
- An institution of higher education, as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a),
- A nonprofit entity related to or affiliated with any such institution,
- A nonprofit entity which engages in established curriculum-related clinical training of students registered at any such institution, or
- A nonprofit research organization.

These exemptions became effective when the President signed the law on October 17, 2000. The fee increase takes effect two months after enactment, on December 18, 2000. INS is working to change the forms and systems to accommodate the new law but this will take time. In the meantime, petitioners claiming to be exempt should submit a copy of the relevant provision of law (P.L. 106-311) with their petition along with evidence that they qualify as an exempt organization. Petitioners should also note on Form I-129W the basis for the exemption, notwithstanding the fact that the form will not initially contain the necessary boxes to check for these new exemptions.

Any employer who claims an exemption based upon its status as an institution of higher education, a non-profit organization related to or affiliated with an institution of higher education or a non-profit or governmental research organization, must submit evidence of its tax exempt status to INS.