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SCOPS Update ? 07-13-2011

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Submitted by Chief Editor on Jul 13th 2011

Filing location for concurrently-filed I-140/I-485 petitions

Unless there is an accompanying I-907 all I-140/485 concurrent filings must be filed at the lockbox addresses. Depending on the jurisdiction the filing must be sent directly to TSC or NSC.

Employers who are cap-exempt under INA § 214(g)(5)(A) or (g)(5)(B) filing H-1B petitions

Employers who are cap-exempt under INA § 214(g)(5)(A) or (g)(5)(B) should file their petitions with California Service Center. Instructions on page 19 to Form I-129 state: "Regardless of work locations, the following types of petitions should **always** be sent to the **California Service Center**". H-1B petitions where the employer is statutorily exempt from the cap??

Procedures for Calculating Maximum Period of Stay Regarding the Limitations on Admission for H-1B, L-1 and R-1 Nonimmigrants

Regarding the procedures for Calculating Maximum Period of Stay the Limitations on Admission for H-1B and L-1 Nonimmigrants, memorandum from Michael Aytes, Acting Associate Director for Domestic Operations, dated October 21, 2005 term - "period of authorized admission" which is found in both the H-1B (INA 214(g)(4) and L-1 (INA 214(c)(2)(D) context, and concluded that because the term "admission" is defined as "the lawful entry of the alien into the United States after inspection and authorization by an immigration officer" only time spent in the United States as an H-1B or L-1 counts towards the maximum. However this memo is specifically for H-1B and L-1 classifications. For further information please read the [document](#) ^[2].

On the other hand the law for R-1 classification at INA 101(a)(15)(R) refers only to a "period not to exceed five years" and does not reference a period of "admission", therefore falling outside of the ambit of INA 101(a)(13)(A). In this case there is no provision that would allow for recapturing of the time spent abroad on R status.

But according to 8 CFR 214.2(r)(6) the five-year limitation on the statutory maximum total period of stay does not pertain to R-1 nonimmigrants who did not reside continually in the United States and whose employment in the United States was seasonal or intermittent or was for an aggregate of six months or less per year. In addition the five-year limitations do not concern R-1 nonimmigrants that reside abroad and regularly commute to the United

States to engage in part-time employment.

Lockboxes and I-290Bs

Lockboxes now receipt I-290B, Notice of Appeal or Motion to reconsider or reopen, decisions rendered by Service Centers or the National Benefits Center. However, the exception is that Form I-290B must be filed with the Vermont Service Center if it relates to unfavorable decisions involving VAWA, T, and U Visas. Requests can still be made on field office decisions by filing I-120B directly with the Field Office that made the unfavorable decision.

Note: The notice of denial will include specific instructions in this regard.

Nonimmigrant Visas:

General Nonimmigrant Visa [3]

H Visa [4]

L Visa [5]

R Visa [6]

Agency:

lockbox [7]

Green Card:

Form I-140 [8]

Form I-485 [9]

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Links:

[1] <https://immigration.com/news/general-nonimmigrant-visa/scops-update-%E2%80%93-07-13-2011-0>

[2] http://www.uscis.gov/USCIS/Laws/Memoranda/Static_Files_Memoranda/Archives%201998-2008/2005/recaptureh1b1102105.pdf

[3] <https://immigration.com/visa/nonimmigrant-visas/general-nonimmigrant-visa>

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

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

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

[7] <https://immigration.com/agencies/agency/dhs/uscis/lockbox>

[8] <https://immigration.com/greencard/green-card/form-i-140>

[9] <https://immigration.com/greencard/green-card/form-i-485>