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EAD and H-1 Conversions for Derivatives

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Submitted by Rajiv S. Khanna on Jul 6th 2008

Here is another set of questions that may be of interest to you folks.

Facts from one of our clients

I have applied for 485 as the primary applicant and my wife is the secondary applicant. Right now both of us are on H1 visa. We had applied for EAD and AP and intend to apply for renewal soon as we near 120 days.

I am on my 7th year of H1 and my wife is on 2nd year of H1 and 3 year of (H1 and H4 combine). Her current H1 expires on April 2010.

I intend to remain on H1 itself and have no intentions of using my EAD.

Can you please clarify these questions.

Qo1. Would it be advisable for my wife(secondary applicant) to change to EAD in case she gets a better employment with another another employer? This employer is not willing to transfer H1.

Ans. That should be fine.

Qo2. All that is required to work on EAD is fill in form I-9 and submit a copy of EAD with it. Does the employer have to do anything like notifying USCIS etc?

Ans2. The employer has to do nothing more than prepare the I-9 and keep updating it every time new EAD is issued.

Qo3. From what I have read on forclients.com if she joins on EAD now she can come back later on H1 but will have to travel out of the country and get her H1 stamping done. Is this right(just confirming it)?

Ans3. Correct.

Qo4. When she comes back on H1 she will be using the current H1 itself? It will not be a new H1 and we will not have any issues of new H1 quota right?

Ans4. Correct.

Qo5. If she decides to come back to H1 should it be before April 2010(when current H1 expires) or it can be after that also?

Ans5. Any time.

Qo6. What happens if her current employer reinvokes her H1 after she quits them. Can she still come back on H1?

Ans6. When she leaves, they should revoke her H-1. If she wishes to rejoin them, they can reapply the H-1.

Regards. Rajiv.

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H-1 Visa [2]

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