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## Business Visas: Legal Aliens Help Support the U.S. Economy

September 22, 2009 Tampa FL (c) 2009 Thomas W. Goldman, Esq., JD, LL.M. and Peter J. Loughlin, Esq., JD, LL.M.

We often hear our immigration laws need reforming, but most of the attention is on reforming laws affecting immigrants who are in the United States illegally. We do, of course, realize that is perhaps not the politically correct way of saying it, but if we are going to solve our immigration problems, we have to face reality. Those individuals who are here legally also have immigration problems, and these are all too often ignored. While cries for legalization are even heard in street protests as well as in Congress, the fact is that it is easier for some illegal immigrants to obtain permission to work and to obtain a green card than it is for legal immigrants.

How is this so? Well, let's take a person who comes to the United States unlawfully and without inspection by boat to Miami or St. Thomas, and then files an application for political asylum. In 150 days, an employment authorization document can be issued permitting the individual to work in the United States, and, permanent residence can eventually be granted if the refugee is granted asylum. After five years they may file for and become a U.S. citizen.

Contrast this scenario with a business investor from another country who wants to live and work in the United States, and is able to invest money in our economy and pay his or her own way while in this country. For example, some foreign nationals apply for an EB-5 visa by investing a minimum of \$500,000 to \$1,000,000 or more in a qualified business. Others, who own an ongoing business in their home country may invest money in establishing a viable branch office in the U.S. and obtain an L-1 visa also a potential track to obtaining lawful permanent residence status, that is, a green card.

If the foreign national does not have sufficient funds to, in effect, buy a visa (and potentially a green card), or does not have an ongoing business in the home country, another very popular business investor visa is the E-2 visa. With this visa, they are able to purchase or start a new business in the United States and live and work here for an indefinite period of time. However, this type of visa will not allow the investor to ever apply for permanent residence. As wonderful as the business investor visas can be, they are not without problems.

While at a restaurant recently, talking to the owner, he mentioned an unpleasant experience he had with the U.S. consular office in his home country of Germany. He and his wife were renewing their E-2 visa, which is required periodically in order to assure that the business is still viable and, at least potentially helpful to the U.S. economy. To do so, he had to temporarily close the restaurant in order to return to his home country because the business requires his management and presence. He took his renewal application (four to five inches thick) to one of the examiners' windows where he spoke with two US immigration officers to resell them on the continued viability of his business.

This was not an easy process. The restaurant owner and his wife have been running this business in the U.S. for 10 years. They and their children have effectively made the U.S. their home. All of their money is tied up in the business. Yet, all could be lost in a matter of minutes in this interview.

One officer listened while another reviewed the documentation. According to the owner, the attitude of the officers was somewhat confrontational with questions like, How do you make so much money with so few employees. The owners felt a sense of hostility and suspicion towards them although they have worked hard to establish and expand their business and have certainly contributed to the U.S. economy. What the restaurant owner may not have realized was that he was fortunate that the officers took the time to be prepared during the interview. We have, on occasion, had clients of Goldman & Loughlin go to the interview only to discover the officer had not taken the time to review the application and supporting documentation. While such incidents are admittedly rare, it should never happen to anyone particularly hard working investors who have taken the time and effort to come to the U.S. lawfully and contribute to the community and economy of this nation.

Getting back now to our point about the contrast between illegal and legal aliens. A process that allows refugees to come to America and receive permanent status, and potentially, US citizenship is just and noble. Many of these people are destitute, have no education and no ability to support themselves. Yet, through persistence and help from family, friends and the US government, a new life with all of the benefits of living in America can be started.

The call is being made, however, to provide a path to permanent residence not only to refugees, but to anyone who has been able to make it across our borders and avoid detection. (The PC way of saying this is that there should be an undocumented workers program.)

If Congress ever develops the political will to move ahead with immigration reform, attention must be paid to those who have come here legally as well as illegally. We, as a country, need to identify people who have the education and skills to help our economy grow and offer visas to encourage this class of foreign national to enter the U.S. as well. After all, due to the downturn in our economy, the ever-expanding opportunities for jobs in other countries such as India and China, over regulation of businesses and burdensome tax laws in the United States, educated and/or highly skilled engineers, mathematicians, scientists and health care professionals have a variety of other attractive options.

Congress should continue to allow America to be a safe haven for refugees from around the world, and reform immigration laws in a realistic and humane way. However, it is imperative for our country to find solutions for immigrants who come here legally. We need to find ways to attract investors and other foreign nationals rather than discourage them from applying for visas.

The good news is that our new-found friend and superb restaurateur was granted his visa and we will be able to continue to enjoy his great cuisine!

#### About the Authors

Attorneys, Thomas W. Goldman and Peter J. Loughlin are the founders and senior partners of Goldman & Loughlin, PLLC, a nationwide U.S. immigration law firm with offices in Orlando FL, Naples FL and Bradenton FL (<http://www.USImmigrationTeam.com>). They also host the popular blog and Internet radio talk show at: <http://www.ImmigrationNewsRadio.com>.