



U.S. Customs and
Border Protection

MAR 18 2005

MEMORANDUM FOR: DIRECTORS, FIELD OPERATIONS
ACTING DIRECTOR, PRECLEARANCE

FROM: Acting Executive Director
Immigration Policy and Programs

SUBJECT: Implementation of Fraud Prevention and Detection
Fee (\$500)

Pursuant to P.L. 108-447, Consolidated Appropriations Act, 2005, Division J, Title IV, Subtitle B – H-1B Visa Reform, Section 426, Congress has authorized the imposition a fraud prevention and detection fee on employers filing a petition to grant an alien nonimmigrant status as an L-1 or H-1B as described in subparagraph (H)(1)(b) or (L) of Section 101(a)(15) of the Immigration and Nationality Act (the Act). The amount of the fraud prevention and detection fee shall be \$500 and will be assessed only for principal beneficiaries and not for their spouses or children who are accompanying or following to join. This fee will be collected by the Department of State (DOS) or the Department of Homeland Security (DHS) and will be divided equally among the DHS, DOS, and the Department of Labor, for the purpose of combating fraud.

The requirement to collect the new fee affects Customs and Border Protection (CBP) procedures only in cases where a United States or foreign employer is seeking to classify a citizen of Canada as an L-1 intracompany transferee under the North American Free Trade Agreement (NAFTA), either under an individual or a blanket petition, where the beneficiary presents himself or herself to a CBP Officer at a Class A port of entry located on the United States–Canada border or at a U.S. pre-clearance/pre-flight station in Canada. 8 CFR 214.2(l)(17).

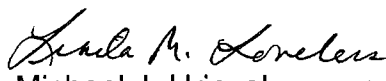
Effective immediately, CBP Officers will collect the required \$185 fee for the L-1 petition, as well as the \$500 fraud prevention and detection fee. The \$500 fee shall be collected only upon an alien's first entry with a new petition as an L-1, where the fee has not been previously collected, or where there is a new petition involving a change of employer. (That is, the \$500 fee will only be collected one time for a petition involving a beneficiary and an employer. Once the fee has been collected, there would be no fee for a subsequent petition involving the same beneficiary and employer).

The provisions of 8 CFR 214.2(l)(17) permit CBP Officers at the ports-of-entry listed above to adjudicate only new petitions. Applicants seeking to renew or extend their L-1 status while in the United States must apply at a Citizenship and Immigration Service (CIS) Service Center. CBP does not have the authority to grant extensions or renewals at ports of entry. Therefore, persons applying for entry at a designated U.S. port of entry with a Form I-129 seeking to continue their previously approved employment without change will be treated as new petitions. If the fraud prevention and detection fee has already been collected relevant to that employer/beneficiary relationship, it will not be collected again. If such fee has not previously been collected, officers will collect the fee.

A collection class code has not yet been established for collection of fraud prevention and detection fee. As such, the I-129 collection of \$185 should continue to be collected under collection class code 555 and the \$500 I-129 fraud prevention and detection fee should be collected under collection class code 578. The Office of Finance Revenue Division must be made aware of each \$500 I-129 fraud prevention and detection fee collection made under collection class code 578. Notification should be made via fax to (317) 290-3086, Attention: Sharon Johnson, or via cc:mail to Vera Sharon Johnson. Collection class code 578 will be used until a collection class code can be established for the new fraud prevention and detection fee. Applicants need not pay these fees with separate checks – payments may be combined in one check.

As an additional reminder, it has come to our attention that some ports of entry are refusing to accept checks from law firms for L-1 or TN applicants at ports of entry. Please refer to 19 CFR 24.1 and the Collections and Deposits Handbook, HB 5300-12A, for information regarding CBP policy on acceptance of payment. Officers may also accept a check from a law firm on behalf of a client who is an applicant for admission, provided the requisite information is entered on the check, including the payor's name, home and business telephone, date of birth, and social security number, tax payer identification number, passport number, or driver's license number, and the check is payable in U.S. funds from a U.S. financial institution. Checks issued by law firms on behalf of clients are not considered third-party checks if they are properly made payable to the U.S. government or as provided for in the handbook (third-party checks are those made payable to another person and then endorsed over to CBP). In addition, individuals may pay by credit card if such capability is available at that port and in accordance with existing procedures for such payment.

Thank you for your attention to this matter. Please direct any questions you have to Program Manager Mark Hill at (202) 344-2652.


Michael J. Hrinyak (for)