



GMS Flash Alert

Immigration Edition

2022-001 | January 5, 2022



United States - Nonimmigrant Visa Interview Waiver Expanded, Extended Through 2022

On December 23, 2021, the U.S. Secretary of State, Antony Blinken, in consultation with the Department of Homeland Security, announced that consular officers will be authorized to waive the in-person interview requirement for specific individual, nonimmigrant visa applicants whose petitions have been approved by the U.S. Citizenship and Immigration Services (USCIS) through December 31, 2022.¹

The waiver applies to foreign nationals applying for H-1, H-3, H-4, L, O, P, and Q visas on the basis of an individual petition-based application, so long as they meet specific criteria and have no apparent or potential ineligibility.² In addition, the existing policy permitting interview waivers for select F, M, and academic J nonimmigrants has been amended and extended through December 31, 2022. Lastly, authorization to waive the visa interview for applicants renewing a visa in the same category that expired within the last 48 months has been extended indefinitely.

WHY THIS MATTERS

As the existing nonimmigrant interview waiver program was set to expire on December 31, 2021, this expansion and extension is welcomed by foreign nationals applying for the listed visa categories. The U.S. government, recognizing the significant impacts of reduced consular resourcing on visa processing, is attempting to address backlogs caused by its limited capacity to adjudicate visa applications as a result of the coronavirus pandemic.

However, enforcement of the interview waiver policy is discretionary for U.S. consulates and embassies and so the program will likely function on a piecemeal basis. Applicants will need to keep abreast of the services being offered and the requirements for an interview waiver, should it be available, at their country's specific U.S. consulate or embassy via the website.

Interview Waiver Qualifiers and Requirements

First, the interview waiver extension is available to two broad categories of nonimmigrants applying for H-1 (individuals in specialty occupations), H-3 (trainees or special education visitors), H-4 (dependents of the prior categories), L (intracompany transferees), O (individuals with extraordinary ability or achievement), P (athletes, artists, and entertainers), and Q (participants in international cultural exchange programs) visas that meet certain criteria:³

1. **Applicants Previously Issued Any Type of Visa.** These nonimmigrant applicants may have their visa interview waived if they:
 - apply in their country of nationality or residence;
 - have never been refused a visa, *unless* the refusal was overcome or waived; and
 - have no apparent or potential ineligibility to obtaining a visa.
2. **First-Time Applicants.** These nonimmigrant applicants may have their visa interview waived if they:
 - apply in their country of nationality or residence;
 - are citizens or nationals of a country that participates in the Visa Waiver Program (VWP);
 - have previously traveled to the United States under the VWP using the Electronic System for Travel Authorization (ESTA); and
 - have no apparent or potential ineligibility to obtaining a visa.

Second, the ability for consular officers to waive interviews for temporary agricultural and non-agricultural workers (H-2 visas), students (F and M visas), and exchange students (academic J visas) will also remain in place through December 31, 2022. The policy already in place for these particular visa applicants has been amended to require that they have previously travelled to the United States using ESTA in order to qualify for the interview waiver. Moreover, these individuals must apply for a visa in their country of residence or nationality. Thus, individuals visiting a country (in which they do not maintain nationality or residence) and applying for a U.S. visa in that country, will not be eligible for a visa interview waivers.

Thirdly, applicants who are renewing *any* visa type that has expired within the prior 48 months will continue to be eligible for interview waiver. Consular authority to carry out this policy has been extended indefinitely.

Subject to Consular Discretion and Availability

As implemented in the past, the visa interview waiver policy will be subject to the discretion of the consular officers at the specific consulate or embassy in which the foreign national applies for the visa and requests the waiver. In addition, there may be case-specific factors that require a consular officer to carry out an in-person interview after review of the visa application.

KPMG NOTE

It is recommended that applicants consult the website of the consular location in which they will be applying for their visa to inform themselves of the guidelines for applying without an interview and for their general inquiries on the

© 2022 KPMG LLP, an Ontario limited liability partnership and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved. Printed in the U.S.A. NDPPS 530159

2022-001 | January 5, 2022

KPMG NOTE (cont'd)

location's operations and services. Applicants are also reminded that they should remain in the country in which they applied for their U.S. visa while the adjudication process is being carried out.

KPMG Law LLP in Canada is tracking this matter closely. We will endeavor to keep readers of *GMS Flash Alert* posted on any important developments as and when they occur.

FOOTNOTES:

- 1 See U.S. Department of State, "[Important Announcement on Waivers of the Interview Requirement for Certain Nonimmigrant Visas](#)" (December 23, 2021).
- 2 See U.S. Department of State, "[Expanded Interview Waivers for Certain Nonimmigrant Visa Applicants](#)" (December 23, 2021).
- 3 See National Law Review, "[US DOS Extends and Expands Visa Interview Waiver Eligibility; President Rescinds Latest Covid Travel Ban \(US\)](#)" (December 30, 2021). *Please note that by clicking on this link, are leaving the KPMG website for an external site, that KPMG is not affiliated with nor is KPMG endorsing its content. The use of the external site and its content may be subject to the terms of use and/or privacy policies of its owner or operator.*

* * * *

Contact us

For additional information or assistance, please contact your local GMS or People Services professional* or one of the following professionals with the KPMG International member firm in Canada:



Chelsea Hsieh

Attorney, U.S. Immigration

KPMG Law LLP – Tax + Immigration,
Canada

Tel. +1 416-943-7874

chelseahsieh@kpmg.ca



Alexander Tolie

Associate, U.S. Immigration

KPMG Law LLP – Tax + Immigration,
Canada

Tel. +1-416-468-7553

atolie@kpmg.ca

** Please note the KPMG International member firm in the United States does not provide immigration or labour law services. However, KPMG Law LLP in Canada can assist clients with U.S. immigration matters.*

The information contained in this newsletter was submitted by the KPMG International member firm in Canada.

© 2022 KPMG LLP, an Ontario limited liability partnership and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved.

www.kpmg.com

kpmg.com/socialmedia



© 2022 KPMG LLP, a Delaware limited liability partnership and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved. Printed in the U.S.A. NDPPS 530159

The KPMG name and logo are registered trademarks or trademarks of KPMG International. The KPMG name and logo are trademarks used under license by the independent member firms of the KPMG global organization.

KPMG LLP is the U.S. firm of the KPMG global organization of independent professional services firms providing Audit, Tax and Advisory services. The KPMG global organization operates in 147 countries and territories and has more than 219,000 people working in member firms around the world.

Each KPMG firm is a legally distinct and separate entity and describes itself as such. KPMG International Limited is a private English company limited by guarantee. KPMG International Limited and its related entities do not provide services to clients.

Flash Alert is a GMS publication of KPMG LLP's Washington National Tax practice. To view this publication or recent prior issues online, please click here. To learn more about our GMS practice, please visit us on the Internet: click here or go to <http://www.kpmg.com>.