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FREQUENTLY ASKED IMMIGRATION QUESTIONS AND ANSWERS

1. If I get a Work based Visa, Can I Work for Another Company or Work on Something Else?

Generally a non-immigrant (temporary) work based Visa only allows you to work in the profession and on the tasks that the Visa was issued for. For example, if you get a TN Visa that allows you to work as a doctor or lawyer for a company, you will only be permitted to work for that company and you could not say take clients on the side and charge them. Similarly, if you start a business and get an E-2 Visa, you can only conduct business associated with the business activities that you listed on your application. For example, if you get an E-2 Visa because you open a coffee shop, you could not then open a grocery store in conjunction with your coffee shop. Your work activities in this case would be limited to running the coffee shop. If you have a green card, you can work anywhere in the United States without restriction.

2. What Happens if I Overstay My Visa or Work Without Authorization?

You are only permitted to stay in the United States for the time designated on your I-94 form and any overstay can cause you problems. This is a complicated area but generally speaking the longer you stay in the country without status, the harder it will be for you to obtain a visa in the future. Some overstays combined with unauthorized work can result in a permanent bar from the U.S.. If you have overstayed your Visa, you should consult an immigration attorney right away. Often for short overstays, an attorney can work with you to put your best foot forward with the government. Also, when you apply for almost every Visa after you have already had one in the U.S., the government wants you to PROVE that you maintained lawful status after your Visa expired or show proof that you left the country. It is NOT sufficient to just say that I lost my airline ticket or I drove across the border as it is your responsibility to prove that you maintained status. Also, you should note that organizations are required to report to the U.S. government when employment terminates. For example, when you have an H-1B visa, an employer is required by law to communicate to the government when your employment ends. Do not make the mistake that the government is not well connected and a lie or omission could cost you a future Visa. In all cases non citizens or green card holders require work authorization to work in the U.S.. A Visa is NOT work authorization so check the rules carefully.

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3. How Long Do I Have To Wait For My Visa or Green Card?

The answer really depends on the Visa and where you are applying. Each government processing center publishes estimates of how long it will take to process a Visa and you should consult that listing for general timing. This timing is not however a guarantee. If you want a Visa processed within 15 days, you can opt for something called premium processing. While expensive (\$1225) the government guarantees an answer in 15 business days. You should note that not all Visas are available for premium processing and you can get a list of what is eligible here. Click here. For green cards, the wait really depends on the category you are applying from and the country you are from. The government publishes a calendar of when Visas (green cards) in each category come current but the schedule is quite confusing.

4. If I Get A Green Card How Am I Taxed?

If you get a green card you are considered a resident for tax purposes and you will be taxed on your WORLDWIDE income. You should consult with a lawyer or tax professional if you have significant income from other countries as even if the tax rate is zero in your country, you will have to pay tax on this in the U.S.. There are many options you could consider so that you are not taxed in the U.S. so getting good advice is crucial. For example, instead of getting an EB-5 Visa (the million dollar green card), you could consider getting an E-2 Visa. An E-2 Visa gives you many of the benefits of a green card but as it is a temporary Visa you will only pay tax in the U.S. for U.S. source income.

5. If I Am Already in the United States Do I have To Leave And Reenter the U.S. if I Want To Change Visas?

If you are in the U.S. and have a valid Visa, you will most likely be able to “change status” by filing the appropriate petitions. For example, if you are on an H-1B Visa and you want to open a small business, you can file a change of status petition and submit the appropriate documentation to the U.S. government. Be careful when you change status though as the change may not be sufficient for an “entry” Visa. That is, it may give you lawful status in the country but you will need to apply for a Visa at a U.S. consulate if you leave the U.S. and want to reenter. This area is a bit complicated but it is best to think of a Visa as a bundle of rights that you use to enter the country. That bundle allows you to work or do what the Visa was issued for and that is the basis for entry. Generally speaking, a change of status will change your status but will not give you a new Visa for entry purposes. As such, when you reenter, the government will want to see which Visa you are entering on and typically the “old” Visa is the one that will be in your passport. Here is a more concrete example, above I mentioned a person who may want to change from an H-1B to a E-2 Visa. If this person filed a change of status, he/she would be able to stay in the country in valid E-2 status but would not have an E-2 VISA in their passport. If the person left the country, he/she would be required to re-apply for the E-2 Visa at a U.S. consulate as they

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could not reenter with the H-1B Visa. This is a confusing area so you should consult an immigration attorney for sure.

6. Can I Be Deported If I Get A Green Card?

Yes. Although a green card is called a “permanent” resident card, it is far from permanent. There are a number of reasons one can be deported with a green card including, but not limited to, committing a serious crime and crimes of moral turpitude (no-one really knows what this means). Also, if you leave the country for an extended period of time, you can lose your green card. Do not be fooled into thinking that you cannot be deported and you should speak to an immigration attorney if you are not a citizen and are charged with any crime. Many have made the grave mistake of pleading guilty to a crime only to later realize that the conviction has a serious consequence on their immigration standing.

7. If I Get A Green Card Do I Have To Stay In The U.S.?

Green cards are made available for people who want to live in the U.S. and the U.S. Government requires that you spend time here. If you leave the U.S. for 6 months, you could run into difficulty and if you leave for one year you have abandoned your green card. You should at least return to the U.S. periodically if you want to maintain your green card and you should keep the proof of entry in case you are questioned later about any absences.

8. Should I Pay an Immigration Lawyer Or Do The Work Myself.

There are some immigration forms where you do not need a lawyer. For example, the forms for the diversity lottery are quite simple and you can do those yourself. Also, some of the family based forms can be somewhat procedural and a careful meticulous person could work on some of the forms. While some can work on immigration forms themselves, you are always served by having a lawyer either review the forms or prepare them. Given the importance of an Immigration application and the consequence of completing your petition incorrectly, you should get an experienced Immigration lawyer. Scott Legal Services, P.C. has often taken over cases where people thought they could file their petition on their own and have made errors which have jeopardized their status in the U.S.. Also, Immigration is a tricky area and there are many things a good lawyer can point out to you that may ultimately save you far more than you will ever pay the lawyer. Your chances of a successful petition will ALWAYS be improved if you use a qualified immigration attorney.

9. How Do I Find A Good Immigration Lawyer?

Make sure and ask your immigration lawyer whether or not he/she has handled your particular type of case before and ask how many they have handled. You should also feel free to ask what types of issues the attorney has encountered with your type of case. Also, check to make sure

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that the lawyer is a member of AILA as most reputable immigration lawyers are members of this organization.

10. Why Should You Use Scott Legal Services, P.C.?

Scott Legal Services is a New York based law firm offering legal immigration expertise with a personal touch. The firm's practice covers all areas of immigration law, including family-based immigration, employment-based immigration for individuals and companies, permanent residence or green cards, temporary or non-immigrant visas, asylum, citizenship, deportation and many other immigration areas. The firm can guide you through the intricate world of complex immigration issues and we will offer up various immigration solutions for you.

We keep careful track of the ever changing immigration laws so that we can maximize the effective representation of our clients, and we do not shy away from difficult or complex cases. Our membership in the highly prestigious and informative **American Immigration Lawyers Association** ("AILA") ensures that our clients receive updated, accurate, and comprehensive advice.

Our firm fees are both reasonable and competitive and your exact fee will depend on the immigration petition you want filed, the complexity of the issues, or the length of time and work involved. Although the emotional impact on you and your loved ones may be great during the immigration process, be assured that Scott Legal Services, P.C. will do everything in its power to secure an outcome for you that will be a positive one. We want to help you to begin a new era in your life.

Look to Scott Legal Services, P.C. for immigration help in the following areas:

- Green Card / Permanent Resident
- Green Card Through Family
- Green Card Through Employment
- Green Card Through A Job Offer
- Green Card Through Investment
- Green Card When You Do Not Have A Job Offer
- Green Card Categories
- Temporary Employment Based Immigration Visas
- Other Temporary Visas