

## **INSTRUCTIONS FOR APPLICATION FOR EMPLOYMENT AUTHORIZATION Form I 765**

The Immigration and Naturalization Service (INS) recommends that you retain a copy of your completed application for your records.

### **PART 1. GENERAL.**

*Purpose of the Application.* Certain aliens who are temporarily in the United States may file a Form I-765, Application for Employment Authorization, to request an Employment Authorization Document (EAD). Other aliens who are authorized to work in the United States without restrictions should also use this form to apply to the INS for a document evidencing such authorization. Please review Part 2 ELIGIBILITY CATEGORIES to determine whether you should use this form.

If you are a Lawful Permanent Resident, a Conditional Resident, or a nonimmigrant authorized to be employed with a specific employer under 8 CFR 274a.12(b), please do NOT use this form.

### *DEFINITIONS*

Employment Authorization Document (EAD): Form I-688 Form I-688A; Form I-688B; or any successor document issued by the INS as evidence that the holder is authorized to work in the United States.

Renewal EAD: an EAD issued to an eligible applicant at or after the expiration of a previous EAD issued under the same category.

Replacement EAD: an EAD issued to an eligible applicant when the previously issued EAD has been lost, stolen mutilated, or the previously issued card contains erroneous information, such as a misspelled name.

Interim EAD: an EAD issued to an eligible applicant when the INS has failed to adjudicate an application within 90 days of receipt of a properly filed EAD application or within 30 days of a properly filed initial EAD application based on an asylum application filed on or after January 4, 1995. The interim EAD will be granted for a period not to exceed 240 days and is subject to the conditions noted on the document.

### **PART 2. ELIGIBILITY CATEGORIES.**

The INS adjudicates a request for employment authorization by determining whether an applicant has submitted the required information and documentation,

and whether the applicant is eligible. In order to determine your eligibility, you must identify the category in which you are eligible and fill in that category in question 16 on the Form I-765. Enter only one of the following category numbers on the application form.

NOTE: Category (c)(13) is no longer available. You may not renew or replace your EAD based on (c)(13). If you have an EAD based on that category, please review the categories below to determine if you are eligible under another category.

*APPLICATIONS TO BE FILED AT SERVICE CENTERS.*

Asylee, (granted asylum)--(a)(5). File your EAD application with a copy of the INS letter granting you asylum. It is not necessary to apply for an EAD as an asylee until 90 days before the expiration of your current EAD.

Refugee--(a)(3). File your EAD application with either a copy of your Form I-590, Registration for Classification as Refugee, approval letter or a copy of a Form I-730, Refugee/Asylee Relative Petition, approval notice.

Paroled as a Refugee--(a)(4). File your EAD application with a copy of your Form I-94, Departure Record.

Asylum Applicant (with a pending asylum application) who Filed for Asylum on or after January 4, 1995--(c)(8). If you filed a Form I-589, Request for Asylum and for Withholding of Deportation, on or after January 4, 1995. you must wait at least 150 days before you are eligible to apply for an EAD. If you file your EAD application early, it will be denied and you will have to file a new application. File your EAD application with:

- . A copy of the INS acknowledgment mailer which was mailed to you; or
- . Other evidence that your Form I-589 was filed with the INS; or
- . Evidence that your Form I-589 was filed with an Immigration Judge at the Executive Office for Immigration Review (EOIR); or . Evidence that your asylum application remains under administrative or judicial review. Asylum Applicant (with a pending asylum application) who Filed for Asylum and Withholding of Deportation Prior to January 4, 1995 and is NOT in Exclusion or Deportation Proceedings--(c)(8). You may file your EAD application at any time; however, it will only be granted if the INS finds that your asylum application is not frivolous. File your EAD application with:
  - . A complete copy of your previously filed Form I-589; and
  - . A copy of your INS receipt notice; or
  - . A copy of the INS acknowledgment mailer; or

- . Evidence that your Form I-589 was filed with EOIR; or
- . Evidence that your asylum application remains under administrative or judicial review; or
- . Other evidence that you filed an asylum application.

Asylum Applicant (with a pending asylum application) who Filed an Initial Request for Asylum Prior to January 4, 1995, and IS IN Exclusion or Deportation Proceedings--(c)(8). If you filed your Request for Asylum and Withholding of Deportation (Form I-589) prior to January 4, 1995 and you ARE IN exclusion or deportation proceedings, file your EAD application with:

- . A date-stamped copy of your previously filed Form I-589; or
- . A copy of Form I-221, Order to Show Cause and Notice of Hearing, or Form I-122, Notice to Applicant for Admission Detained for Hearing Before Immigration Judge; or
- . A copy of EOIR-26, Notice of Appeal, date stamped by the Office of the Immigration Judge; or
- . A date-stamped copy of a petition for judicial review or for habeas corpus issued to the asylum applicant; or

. Other evidence that you filed an asylum application with EOIR. Asylum Applicant under the ABC Settlement Agreement--(c)(8). If you are an El Salvadoran or Guatemalan national eligible for benefits under the ABC settlement agreement, *American Baptist Churches v. Thornburgh*, 760 F. Supp. 796 (N.D. Cal. 1991), there are special instructions applicable to filing your Form I-765 which supplement these instructions. These instructions and the application can be obtained by asking for an "ABC packet" at your local INS office or by calling 1-800-755-0777. Deferred Enforced Departure (DED)/Extended Voluntary Departure--(a)(11). File your EAD application with evidence of your identity and nationality.

F-1 Student Seeking Optional Practical Training in an Occupation Directly Related to Studies--(c)(3)(i). File your EAD application with a Certificate of Eligibility of Nonimmigrant (F-1) Student Status (Form I-20 A-B/I-20 ID) endorsed by a designated school official within the past 30 days.

F-1 Student Offered Off-Campus Employment under the Sponsorship of a Qualifying International Organization-- (c)(3)(ii). File your EAD application with the international organization's letter of certification that the proposed employment is within the scope of its sponsorship and a Certificate of Eligibility of Nonimmigrant (F-1) Student Status--For Academic and Language Students (Form I-20 A-B/I-20 ID) endorsed by the designated school official within the past 30 days.

F-1 Student Seeking Off-Campus Employment Due to Severe Economic Hardship-- (c)(3)(iii). File your EAD application with Form I-20 A-B/I-20 ID, Certificate of Eligibility of Nonimmigrant (F-1) Student Status--For Academic and Language Students; Form I-538, Certification by Designated School Official, and any evidence you wish to submit, such as affidavits, which detail the unforeseen economic circumstances that cause your request, and evidence you have tried to find off-campus employment with an employer who has filed a labor and wage attestation.

J-2 Spouse or Minor Child of an Exchange Visitor--(c)(5). File your EAD application with a copy of your J-1's (principal alien's) Certificate of Eligibility for Exchange Visitor (J-1) Status (Form IAP-66). You must submit a written statement, with any supporting evidence showing, that your employment is not necessary to support the J-1 but is for other purposes.

M-1 Student Seeking Practical Training after Completing Studies--(c)(6). File your EAD application with a completed Form I-538, Application by Nonimmigrant Student for Extension of Stay, School Transfer, or Permission to Accept or Continue Employment, Form I-20 M-N, Certificate of Eligibility for Nonimmigrant (M-1) Student Status--For Vocational Students endorsed by the designated school official within the past 30 days.

Dependent of CCNAA E-1 Nonimmigrant--(c)(2). File your EAD application with the required certification from the American Institute in Taiwan if you are the spouse, or unmarried child, of an E-1 employee of the Coordination Council for North American Affairs.

Dependent of NATO Personnel--(c)(7). File your EAD application with a letter from the Department of Defense or NATO/SACLANT verifying your principal alien's status, your status, and your relationship to your principal alien.

N-8 or N-9 Nonimmigrant--(a)(7). File your EAD application with the required evidence listed in Part 3.

Family Unity Program--(a)(13). File your EAD application with a copy of the approval notice, if you have been granted status under this program. You may choose to file your EAD application concurrently with your Form I-817, Application for Voluntary Departure under the Family Unity Program. The INS may take up to 90 days from the date upon which you are granted status under the Family Unity Program to adjudicate your EAD application. If you were denied Family Unity status solely because your legalized spouse or parent first applied under the Legalization/SAW programs after May 5, 1988, file your EAD application with a new Form I-817 application and a copy of the original denial. However, if your EAD application is based on continuing eligibility under (c)(12), please refer to Deportable Alien Granted Voluntary Departure.

K-1 Nonimmigrant Fiancé(e) of U.S. Citizen or K-2 Dependent--(a)(6). File your EAD application if you are filing within 90 days from the date of entry. This EAD cannot be renewed. Any EAD application other than for a replacement must be based on your pending application for adjustment under (c)(9).

Citizen of Micronesia or the Marshall Islands or Palau--(a)(8). File your EAD application if you were admitted to the United States as a citizen of the Federated States of Micronesia (CFA/FSM) or of the Marshall Islands (CFA/MIS) pursuant to agreements between the United States and the former trust territories.

B-1 Nonimmigrant who is the personal or domestic servant of a nonimmigrant employer--(c)(17)(i). File your EAD application with:

- Evidence from your employer that he or she is a B, E, F, H, I, J, L, M, O, P, R or TN nonimmigrant and you were employed for at least one year by the employer before the employer entered the United States or your employer regularly employs personal and domestic servants and has done so for a period of years before coming to the United States; and
- Evidence that you have either worked for this employer as a personal or domestic servant for at least one year or, evidence that you have at least one year's experience as a personal or domestic servant; and
- Evidence establishing that you have a residence abroad which you have no intention of abandoning.

B-1 Nonimmigrant Domestic Servant of a U.S. Citizen--(c)(17)(ii). File your EAD application with:

- Evidence from your employer that he or she is a U.S. Citizen; and
- Evidence that your employer has a permanent home abroad or is stationed outside the United States and is temporarily visiting the United States or the citizen's current assignment in the United States will not be longer than four (4) years; and
- Evidence that he or she has employed you as a domestic servant abroad for at least six (6) months prior to your admission to the United States.

B-1 Nonimmigrant Employed by a Foreign Airline--(c)(17)(iii). File your EAD application with a letter, from the airline, fully describing your duties and indicating that your position would entitle you to E nonimmigrant status except for the fact that you are not a national of the same country as the airline or

because there is no treaty of commerce and navigation in effect between the United States and that country.

*APPLICATIONS TO BE FILED AT LOCAL INS OFFICES.*

Temporary Protected Status (TPS)--(a)(12). File your EAD application with Form I-821, Application for Temporary Protected Status.

- Initial TPS-based application only, include evidence of identity and nationality as required by the Form I-821 instructions.
- Extension of TPS status, include a copy (front and back) of your last available TPS document: EAD, Form I-94 or approval notice.
- Registration for TPS only without employment authorization, file the Form I-765, Form I-821, and a letter indicating that this form is for registration purposes only. No fee is required for the Form I-765 filed as part of TPS registration. (Form I-821 has separate fee requirements.)

Applying for Temporary Protected Status (TPS)/Temporary Treatment Benefits--(c)(19). File your EAD application with your TPS application, Form I-821. If you are using this application to register for TPS and do not want to work in the United States, you must submit a letter indicating this application is for registration purposes only. No fee is required to register.

Granted Withholding of Deportation--(a)(10). File your EAD application with a copy of the Immigration Judge's order. It is not necessary to apply for a new EAD until 90 days before the expiration of your current EAD.

Dependent of A-1 or A-2 Foreign Government Officials--(c)(1). File your EAD application with a Form I-566, Application for Employment by Spouse or Unmarried Dependent Son or Daughter of A-1 or A-2 Official or Employee of Diplomatic or Consular Establishment or G-4 Officer or Employee of International Organization, with the Department of State endorsement.

Dependent of G-1, G-3 or G-4 Nonimmigrant--(c)(4). File your EAD application with a Form I-566, Application for Employment by Spouse or Unmarried Dependent Son or Daughter of A-1 or A-2 Official or Employee of Diplomatic or Consular Establishment or G-4 Officer or Employee of International Organization, with the Department of State endorsement if you are the dependent of a qualifying G-1, G-3 or G-4 officer of, representative to, or employee of an international organization and you hold a valid nonimmigrant status.

Adjustment Applicant--(c)(9). File your EAD application with a copy of the receipt notice or other evidence that your Form I-485, Application for Permanent Residence, is pending. You may file Form I-765 together with your Form I-485.

Applicant for Suspension of Deportation--(c)(10). File your EAD application with evidence that your Form I-256A, Application for Suspension of Deportation, is pending.

Paroled in the Public Interest--(c)(11). File your EAD application if you were paroled into the United States for emergent reasons or reasons strictly in the public interest.

Deportable Alien Granted Voluntary Departure--(c)(12). File your EAD application with a copy of the order or notice granting voluntary departure, and evidence establishing your economic need to work.

Deferred Action--(c)(14). File your EAD application with a copy of the order, notice or document placing you in deferred action and evidence establishing economic necessity for an EAD.

Adjustment Applicant Based on Continuous Residence Since January 1, 1972--(c)(16). File your EAD application with your Form I-485, Application for Permanent Residence; a copy of your receipt notice; or other evidence that the Form I-485 is pending.

Final Order of Deportation--(c)(18). File your EAD application with a copy of the order of supervision and a request for employment authorization which may be based on, but not limited to the following:

- Existence of economic necessity to be employed;
- Existence of a dependent spouse and/or children in the United States who rely on you for support; and
- Anticipated length of time before you can be removed from the United States.

### **PART 3. REQUIRED DOCUMENTATION WITH EACH APPLICATION.**

All applications must be filed with the documents required below, in addition to the evidence required for the category listed in Part 2 ELIGIBILITY CATEGORIES, with fee, if required.

If you are required to show economic necessity for your category (See Part 2), submit a list of your assets, income and expenses.

Please assemble the documents in the following order:

Your application with the filing fee. See Part 4 FEE for details.

If you are mailing your application to the INS, you must also submit:

- Form I-765 Signature Card. If one is not enclosed with your application, ask your local INS office for one. Sign the card in the blue box marked "signature". Your signature must fit within the blue box. DO NOT fold this card when you mail your application.
- A copy of Form I-94 Departure Record (front and back), if available.
- A copy of your last EAD (front and back).
- 2 photos with a white background taken no earlier than 30 days before submission to the INS. They should be unmounted; printed on thin paper; glossy; and unretouched. The photos should show a three-quarter front profile of the right side of your face, with your right ear visible. Your head should be bare unless you are wearing a headdress as required by a religious order to which you belong. The photo should not be larger than 1 1/2 X 1 1/2 inches, with the distance from the top of the head to just below the chin about 1 1/4 inches. Lightly print your name and your A#, if known, on the back of each photo with a pencil.

#### **PART 4. FEE.**

Applicants must pay a fee of \$70 to file this form unless noted below. If a fee is required, it will not be refunded. Pay in the exact amount. Checks and money orders must be payable in U.S. currency. Make check or money order payable to "Immigration and Naturalization Service." If you live in Guam make your check or money order payable to "Treasurer, Guam." If you live in the U.S. Virgin Islands make your check or money order payable to "Commissioner of Finance of the Virgin Islands." There will be an additional charge if your check is not honored.

Please do not send cash in the mail.

Initial EAD: If this is your initial application and you are applying under one of the following categories, a filing fee is not required:

- (a)(3) Refugee;
- (a)(4) Paroled as Refugee;
- (a)(5) Asylee;



- (a)(7) N-8 or N-9 nonimmigrant
- (a)(8) Citizen of Micronesia, Marshall Islands or Palau;
- (a)(10) Granted Withholding of Deportation;
- (a)(11) Deferred Enforced Departure;
- (c)(1) or (c)(4) Dependent of certain foreign government or international organization personnel; or
- (c)(8) Applicant for asylum [an applicant filing under the special ABC procedures must pay the fee].

Renewal EAD: If this is a renewal application and you are applying under one of the following categories, a filing fee is not required:

- (a)(8) Citizen of Micronesia, Marshall Islands, or Palau.
- (a)(10) Granted Withholding of Deportation;
- (a)(11) Deferred Enforced Departure; or
- (c)(1) or (c)(4) Dependent of certain foreign government or international organization personnel.

Replacement EAD: If this is your replacement application and you are applying under one of the following categories, a filing fee is not required:

- (c)(1) or (c)(4) Dependent of certain foreign government or international organization personnel.

You may be eligible for a fee waiver under 8 CFR 103.7(c).

The INS will use The Community Service Administration Income Poverty Guidelines ("Poverty Guidelines") found at 45 CFR 1060.2 as the basic criteria in determining the applicant's eligibility when economic necessity is identified as a factor.

The Poverty Guidelines will be used as a guide, but not as a conclusive standard, in adjudicating fee waiver requests for employment authorization applications requiring a fee.

## **PART 5. WHERE TO FILE.**

If your response to question 16 is:

(a)(3), (a)(4), (a)(5), (a)(7), or (a)(8) mail your application to: INS Service Center  
P.O.Box 87765 Lincoln, NE 68501-7765

If your response to question 16 is: (a)(6), (a)(11), (a)(13), (c)(2), (c)(3)(i), (c)(3)(ii), (c)(3)(iii), (c)(5), (c)(6), (c)(7), (c)(8), (c)(17)(i), (c)(17)(ii), or (c)(17)(iii) mail your application based on your address to the appropriate Service Center:

If you live in: Connecticut, Delaware, the District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Puerto Rico, Rhode Island, Vermont, Virginia, West Virginia or the U.S. Virgin Islands, mail your application to:

INS Service Center P.O.Box 9765 St. Albans, VT 05479-9765

If you live in: Arizona, California, Guam, Hawaii or Nevada, mail your application to:

INS Service Center P.O. Box 10765 Laguna Niguel, CA 92607-0765

If you live in: Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, New Mexico, N. Carolina, Oklahoma, S. Carolina, Tennessee or Texas, mail your application to:

INS Service Center P.O. Box 152122, Department A Irving, TX 75015-2122

If you live elsewhere in the U.S., mail your application to:

INS Service Center P.O. Box 87765 Lincoln, NE 68501-7765

If your response to question 16 is:

a)(10), (a)(12), (c)(I), (c)(4), (c)(10), (c)(II), (c)(12), (c)(14), (c)(16), (c)(18), or (c)(I9) apply at the local INS office having jurisdiction over your place of residence.

If your response to question 16 is (c)(9), file your application at the same local INS office or Service Center where you submitted your adjustment application.

If your response to question 16 is (c)(8) under the special ABC filing instructions and you are filing your asylum and EAD applications together, mail your application to the office where you are filing your asylum application.

## **PART 6. PROCESSING INFORMATION.**

**Acceptance.** An application filed without the required fee, evidence, signature or photographs (if required) will be returned to you as incomplete. You may correct the deficiency and resubmit the application; however, an application is not considered properly filed until the INS accepts it. If your application is complete and filed at an INS Service Center, you will be mailed a Form I-797 receipt notice.

**Decision on your application.**

- **Approval.** If approved, your EAD will either be mailed to you or you may be required to appear at your local INS office to pick it up.

- Request for evidence. If additional information or documentation is required, a written request will be sent to you specifying the information or advising you of an interview.
  - Denial. If your application cannot be granted, you will receive a written notice explaining the basis of your denial.
  - No decision

Interim EAD. If you have not received a decision within 90 days of receipt by the INS of a properly filed EAD application or within 30 days of a properly filed initial EAD application based on an asylum application filed on or after January 4, 1995, you may obtain interim work authorization by appearing in person at your local INS district office. You must bring proof of identity and any notices that you have received from the INS in connection with your application for employment authorization.

## **PART 7. OTHER INFORMATION.**

Penalties for Perjury. All statements contained in response to questions in this application are declared to be true and correct under penalty of perjury. Title 18, United States Code, Section 1546, provides in part:

. . . Whoever knowingly makes under oath, or as permitted under penalty of perjury under 1746 of Title 28, United States Code, knowingly subscribes as true, any false statement with respect to a material fact in any application, affidavit, or other document required by the immigration laws or regulations prescribed thereunder, or knowingly presents any such application, affidavit, or other document containing any such false statement - shall be fined in accordance with this title or imprisoned not more than five years, or both. The knowing placement of false information on this application may subject you and/or the preparer of this application to criminal penalties under Title 18 of the United States Code. The knowing placement of false information on this application may also subject you and/or the preparer to civil penalties under Section 274C of the Immigration and Nationality Act (INA), 8 U.S.C. 1324c. Under 8 U.S.C. 1324c, a person subject to a final order for civil document fraud is deportable from the United States and may be subject to fines.

Authority for Collecting this Information. The authority to require you to file Form I-765, Application for Employment Authorization, when applying for employment authorization is found at 8 U.S.C. 274A(b)(1)(C)(iii). Information you provide on your Form I-765 is used to determine whether you are eligible for employment authorization and for the preparation of your Employment Authorization Document if you are found eligible. Failure to provide all information as requested may result in the denial or rejection of this application. The information you provide may also be disclosed to other federal, state, local and

foreign law enforcement and regulatory agencies during the course of the INS investigations.

Paperwork Reduction Act. The Immigration and Naturalization Service (INS) tries to create forms and instructions which are accurate and easily understood. Often this is difficult because immigration law can be very complex. The public reporting burden for this form is estimated to average three (3) hours and twenty-five (25) minutes per response, including the time for reviewing instructions, gathering and maintaining the data needed, and completing and reviewing the collection of information. The INS welcomes your comments regarding this burden estimate or any other aspect of this form, including suggestions for reducing this burden, to: U.S. Department of Justice, Immigration and Naturalization Service, 425 Eye Street, Room 5307, Washington, D.C. 20536; and to the Office of Management and Budget, Paperwork Reduction Project: OMB No. 1115-0163, Washington, D.C. 20503.