



## **What Foreign Employees & Their Families Can Expect from a Second Trump Administration**

A second Trump administration will begin on January 20th. A Trump administration, based on stated plans, and lived experience from 2016-2020, presents a sea change from the past four years. While we cannot predict with any certainty what will happen, we know that change is coming. Without new legislation, the underlying visa classifications and green card programs (e.g. H-1B, L-1, PERM, etc.) cannot be undone. However, the Trump administration can make pursuing those benefits more challenging and uncertain.

This summary provides guidance for foreign nationals in employer-sponsored visa statuses, such as E-3, H-1B, and TN. This summary is not designed for individuals with work authorization that is discretionary, such as TPS, DACA, and Uniting for Ukraine.

### **Immigration Impact**

- The most severe actions are extremely unlikely to happen. We do NOT expect any of the following to occur:
  - The government tries to deport individuals in lawful status
  - The government tries to revoke green cards or US citizenship at scale
  - Immigration of any kind is paused
  - Visa categories are canceled
  - Green card categories are paused or terminated
- In the first Trump Administration, the first director of the USCIS, Francis Cissna, effectively tweaked dozens of policies to make immigration programs more complicated, challenging, and unpredictable. We expect that skilled administrators will repopulate the agency and they will intentionally throw wrenches into the gears. This will create:
  - More requests for evidence and the associated costs of responding
  - Greater uncertainty for the outcome of petitions
  - Longer processing times
  - Mandatory interviews for immigration benefits
- Political targeting of companies based on grudges and political disputes. We expect that companies may be targeted for immigration compliance audits, denials, and litigation based on how companies and key executives relate to the Trump administration politically. Employees may feel the pain of this targeting as individual immigration processes may be used as leverage for retaliation.

- The administration may use its regulatory power to pursue changes that do not require new laws from Congress, including:
  - Shortening STEM OPT work authorization periods
  - Ending H-4 work authorization for certain spouses
  - Changing the H-1B lottery to be conditioned on wages or other factors, rather than random selection
  - Significantly increase prevailing wages for H-1B, H-2, H-1B1, E-3, and green card processes
  - Ending the International Entrepreneur Parole program
- Travel bans and international travel challenges may ensue, making it more difficult for foreign employees to pursue foreign travel and for foreign talent (including business visitors and consultants) to enter the US.
- Getting a visa at a consulate may become more challenging and appointments may be more difficult to get. In the first Trump administration, many foreign service officers left the government. If that happens again, staffing at consulates will decline and wait times for appointments will rise.

### **How to Prepare**

- Ensure you have copies of your present and past immigration documents in your personal files.
- Follow Meltzer Hellrung's newsletter, blog, or LinkedIn content.
- Check on potential issues and current policies before considering any international travel. Meltzer Hellrung attorneys are the best source of guidance before planning international travel.
- When pursuing a visa at a US consulate, utilize Meltzer Hellrung's consular processing service to minimize any chances of a 221(g) or creating an inconsistent record that may haunt you when applying for future benefits.
- When entering the US, ensure your passport is valid at least as long as your I-797 approval period. Always check your I-94 for accuracy after being admitted upon entering the US.

### **How Meltzer Hellrung Can Help You**

- If the second Trump administration looks anything like the first, managing fear and anxiety are as important as any policy or legal analysis. We will be here to monitor changes, advise on strategy, and provide zealous advocacy and careful reassurance to those impacted.
- We will use our resources and professional affiliations to stay ahead of the curve, as much as possible.
- We will share alerts and updates as quickly as possible via email, Voyager, our website, and social media.
- We are prepared to litigate challenges in federal court, should the need occur.
- We will remain steadfast and resilient, doing our best to be a reliable and trusted resource for you.

Meltzer Hellrung challenges conventions to deliver better outcomes. Founded with the belief that immigration can be a strategic advantage, we understand the complexities of immigration and respond with innovative solutions to meet business and talent needs. Our unique solution – skilled immigration professionals delivering responsive service to clients through Voyager®, our proprietary immigration management platform, delivers the best immigration experience to companies, employees and their families.

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11.11.24