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## No More Need to "Trade" in Your TN Employee After a Year

By: Laurie M. Chess & Mary Ellen Jordan

For those wondering how to deal with the shortages of H-1B visas in recent years, a recent decision by the U.S. Citizenship and Immigration Services ("USCIS") may be one solution. On October 14, 2008, USCIS announced that they increased the maximum period of time a Trade - NAFTA (TN) professional worker from Canada or Mexico may remain in the United States before seeking readmission or obtaining an extension of stay. This final rule changes the initial period of admission for TN workers from one year to three years. Eligible TN nonimmigrants may now be allowed to receive extensions of stay in increments of up to three years instead of the prior maximum period of stay of one year. TN nonimmigrants are not subject to a maximum period of stay and may seek multiple readmissions or extensions, provided their intended professional activity continues and they remain otherwise eligible. Also, unlike the H1-B visa, there is no cap on the number of individuals that can enter the United States through a TN.

The TN nonimmigrant classification is visa category available to eligible Mexicans and Canadians with at least a bachelor's degree or appropriate professional credentials who work in certain qualified fields pursuant to the North American Free Trade Agreement ("NAFTA"). Qualified professions identified within NAFTA include, but are not limited to, accountants, engineers, attorneys, pharmacists, scientists, and teachers. A full list of the applicable professions can be found at the following:

[The United States Embassy - Consular Services Canada](#)

This final rule benefits U.S. employers by increasing the amount of time TN nonimmigrants will be able to work for them before having to seek an extension of status. Also, spouses and unmarried minor children of TN nonimmigrants in their corresponding non-immigrant classifications will also benefit from the new regulation.

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*Remember that these legal principles may change and vary widely in their application to specific factual circumstances. You should consult with counsel about your individual circumstances. For further information regarding these issues, contact:*

Sidney F. Lewis, V  
Labor & Employment Practice Group Leader  
Jones Walker  
201 St. Charles Avenue  
New Orleans, LA 70170-5100  
ph. 504.582.8352  
fax 504.589.8352  
e-mail [slewis@joneswalker.com](mailto:slewis@joneswalker.com)

### Labor & Employment Practice Group

H. MARK ADAMS	MARY ELLEN JORDAN
KEVIN O. AINSWORTH	TRACY E. KERN
JENNIFER L. ANDERSON	JENNIFER F. KOGOS
TIMOTHY P. BRECHTEL	CELESTE C. LABORDE
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