

Blog Post

# USCIS Fee Increases Are Imminent: The Concurrent Adjustment Clock is Ticking for Indian and Chinese Investors

February 20, 2024

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Thanks to a final rule recently announced by the U.S. Citizenship and Immigration Services (USCIS), filing fees are about to increase on April 1, 2024, and filers who fail to make haste will end up paying more, or risk experiencing additional processing delays in certain visa categories. Specifically, on January 31, 2024, USCIS published a [final rule](#) adjusting its filing fees, and the rule is to take effect April 1, 2024. This comes on the heels of the agency's December 28, 2023 final rule, which raised the premium processing fee for most employment-based immigration categories to \$2,805, effective February 26, 2024. As part of the new rule, USCIS has attached an Asylum Program Fee to most I-129 and I-140 filings, which are amongst the most common employment-based filings, and the fee is part of the agency's effort to clear the backlog of 3,000,000 pending asylum cases. However, EB-5 investors may be in for the biggest sticker shock of all if they don't file their cases before April Fool's Day.

## USCIS Employment-Based Fee Increases

The I-526 and I-526E filing fee is being raised from \$3,675 to \$11,160, and the I-829 filing fee is increasing from \$3,835 to \$9,525. Notably, the I-829 can only be filed within ninety days of the end of the two-year conditional residency period. These fee increases

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mean that EB-5 investors will be paying \$20,685 in government filing fees, in addition to the minimum \$800,000 investment and regional center administrative fee, which can be as high as \$60,000. Accordingly, investors may wish to consult with an immigration attorney to determine if filing before April 1, 2024 is feasible, as this will ensure the investor avoids some of the new fees, including the increased adjustment of status fees mentioned below. The Akerman immigration group expects a significant number of filings over the next month and a half considering the volume the team is currently seeing across the industry, and this may potentially lead to the EB-5 set-aside categories becoming retrogressed sooner than expected, so expediency is warranted. The Akerman immigration group is actively working with clients to file their I-526's and I-829's before April 1, 2024. The EB-5 set-aside categories were created by the EB-5 Reform and Integrity Act of 2022 to encourage investment into rural areas, high-unemployment areas, and infrastructure projects. When investors invest the requisite funds into one of the aforementioned areas, they are subject to a separate Visa Bulletin category. Accordingly, Indian and Chinese investors that invest into a set-aside category are not subject to the India or China "line" on the Visa Bulletin and are instead subject to one of the set-aside categories on the Visa Bulletin.

Investors from India and China should move as quickly as possible and invest into a qualifying EB-5 project, as the set-aside categories (Rural, High Unemployment, and Infrastructure) are the only employment-based categories that allow concurrent adjustment for nationals charged to these countries. Investors from other countries will be affected by retrogression in the set-aside categories, but they will also have the option of investing in a non-set-aside category as India and China are currently the only countries facing retrogression in the non-set-aside EB-5 categories on the Visa Bulletin. Should the set-aside categories become retrogressed,

investors from India and China will likely have to wait years before a green card is available.

There will also be a significant change in the H-1B registration fee -- the fee has increased from \$10 to \$215 (a 2,050% increase). This is the fee associated with the annual H-1B lottery registration, which occurs in March of each year. In addition to the H-1B Modernization Rule, this increase in fees will likely decrease the number of registrations submitted in FY 2026. For registrations submitted during the FY 2025 registration period (March 6, 2024-March 22, 2024), the fee will remain \$10.

Lastly, it should be noted that when applying for an adjustment of status, the I-765 fee and the I-131 fee are now unbundled from the I-485 fee. The I-765 is the application for work authorization, and the I-131 is the application for a travel document. Historically, applicants would submit one fee of \$1,225 with the combined I-485, I-765, and I-131 application package; this fee unbundling and increase adds a significant financial burden to applicants seeking a green card. A full list of the new fee schedule can be found on the USCIS [website](#).

Please do not hesitate to contact your Akerman immigration attorney should you have questions on the updated fee schedule or case timelines.

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