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Immigration Update – December 29, 2006

Trow & Rahal, P.C. is pleased to provide this Immigration Update as a service to our clients and friends.

New Passport Requirement for Air Travelers

As of January 23, 2007, citizens of the U.S., Canada, Mexico, and Bermuda traveling to the U.S. by air from any location must present a passport or other acceptable document. This changes the long-standing rule that citizens of these countries can enter the U.S. without a passport when arriving from countries in the Western Hemisphere (North America, Central America, South America and adjacent islands).

Permanent residents (green card holders) will continue to be able to use their Alien Registration Card (Form I-551) or other valid evidence of permanent resident status to apply for entry to the U.S. Children who are U.S. citizens will need a passport even if their parents are green card holders.

Other acceptable documents that may continue to be used instead of a passport are a NEXUS Air card, a Merchant Mariner Document or military orders. The NEXUS Air card is issued to citizens of Canada and the U.S., lawful permanent residents of the U.S. and permanent residents of Canada who meet certain eligibility requirements and may only be accepted when used in conjunction with the NEXUS Air program. The Merchant Mariner Document or "z-card" is issued by the U.S. Coast Guard to U.S. merchant mariners and may only be accepted when used on official business by U.S. Citizen Merchant Mariners. Members of the U.S. military, when traveling on official orders, may continue to present their military ID and orders for entry. Spouses and dependents, however, must present a passport and valid visa, if applicable.

As early as January 1, 2008, these requirements may be extended to travel by land or sea, as well as travel by air. A separate proposed rule addressing land and sea travel will be published at a later date.

A notice announcing the new travel document requirements is posted at <http://www.state.gov/r/pa/prs/ps/2006/76752.htm>. A FAQ (frequently asked questions) page is available at http://www.travel.state.gov/travel/cbpmc/cbpmc_2225.html.

Many Technology Start-Ups Are Founded by Immigrants

A new study published by the National Venture Capital Association analyzes the positive impact that immigrant entrepreneurs and professionals have on the U.S. economy and job creation by starting and working for leading-edge technology companies in the U.S. Among other things, the study finds that of its 342 survey respondents, 47 percent of the founders of venture capital-backed private companies were immigrants. Almost two-thirds of these founders have started or intend to start more companies in the U.S. Most public and private venture-backed companies founded by immigrants were headquartered in California, and the top industry sectors for private immigrant-founded venture-backed companies were software, semiconductors, and biotechnology. The most common place of birth for the founders of both public and private venture-backed companies was India.

Interestingly, few of the immigrant entrepreneurs identified by the study came to the U.S. ready to start a company. Most entered either as children, teenagers, or graduate students, or were hired on H-1B visas to begin a first job while in their twenties, the study notes.

A key lesson of the study is the importance of an open legal immigration system. Although nearly all the immigrant founders of private companies would still start their companies in the U.S. if given the choice today, more than two-thirds of immigrant entrepreneurs agreed that U.S. immigration policy has made it more difficult than in the past to start a business in the U.S.

Nearly two-thirds of company respondents who use H-1B visas said that current U.S. immigration laws affecting skilled professionals harm American competitiveness, and one-third of privately held venture-backed companies said the lack of H-1B visas had influenced their firm's decision to place more personnel abroad.

The study, "American Made: The Impact of Immigrant Entrepreneurs and Professionals on U.S. Competitiveness," is posted at http://www.nvca.org/pdf/AmericanMade_study.pdf.

If you have any questions about the information in this newsletter, please contact one of the Trow & Rahal attorneys listed below.

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