

## MY CLIENT'S T VISA HAS BEEN APPROVED... NOW WHAT?

Congratulations on obtaining a T visa for your client! Now that the application has been approved, you and your client likely have many questions about the benefits that the T visa confers and the rights and responsibilities of a T nonimmigrant. The following is a brief overview of issues that may arise:

### DOCUMENTATION

Your client will receive a number of different documents once her application is approved:

- A T visa approval notice.<sup>1</sup>This approval notice has an I-94 at the bottom.
- I-765 (Application for Employment Authorization) approval notice.
- Employment Authorization Document (EAD). The Category listed on the card should be A16 and the card should be valid for four years.<sup>2</sup>
- I-192 approval notice (if an I-192 waiver was filed).

These documents may arrive in one package or separately. It is not uncommon for the EAD and I-765 approval notice to arrive first and for the T visa (I-914) and I-192 approval notices to arrive several weeks later. If you have not received all the documents within approximately one month, you should call the **VAWA Unit Helpline** (Tel 1-802-527-4888) or email them at [hotlinefollowup19181914.vsc@dhs.gov](mailto:hotlinefollowup19181914.vsc@dhs.gov) and ask that the documents be (re)issued.

### DERIVATIVES IN THE UNITED STATES

Derivatives should receive separate T visa approval notices (and I-192 approval notices if applicable). However, unlike the principal applicant, they will not automatically be issued EADs. Therefore, all derivatives must file a separate I-765 Application for Employment Authorization if they would like to have EADs.<sup>3</sup> The Tahirih Justice Center recommends that all derivatives obtain EADS – even if they are minor children – because an EAD a valid form of ID and is required to obtain a social security card (see below).

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<sup>1</sup> All approval notices will say I-797A Notice of Action in the top right-hand corner.

<sup>2</sup> You should also make sure that the validity/expiration dates on the EAD match up to the dates on the T visa approval notice.

<sup>3</sup> The I-765 application packet should include Form I-765, a check for the filing fee or fee waiver, a copy of the derivative's T visa approval notice, and two passport-style photographs (with name and A number on the back).

**Baltimore**  
201 N. Charles St.  
Suite 920  
Baltimore, MD 21201  
Tel: 410-999-1900  
Fax: 410-630-7539  
[baltimore@tahirih.org](mailto:baltimore@tahirih.org)

**Greater DC | National**  
6402 Arlington Blvd.  
Suite 300  
Tel: 571-282-6161  
Fax: 571-282-6162  
TTY: 711  
Falls Church, VA 22042  
[greaterdc@tahirih.org](mailto:greaterdc@tahirih.org)  
[justice@tahirih.org](mailto:justice@tahirih.org)

**Houston**  
1717 St. James Place  
Suite 450  
Houston, TX 77056  
Tel: 713-496-0100  
Fax: 713-481-1793  
[houston@tahirih.org](mailto:houston@tahirih.org)

[www.tahirih.org](http://www.tahirih.org)

## **PUBLIC BENEFITS**

### *Eligibility for Benefits:*

Once a T visa is approved, the client is eligible for a range of public benefits, including cash assistance, TANF, medical assistance, SSI, and food stamps. If your client does not already have an open social services case with Tahirih, she should contact us. Tahirih's social services staff can help with the process of applying for these benefits.

### *Proof of Eligibility for Benefits:*

Upon approval of the T visa, the United States Department of Health and Human Services (HHS) writes a letter certifying that the client is a victim of trafficking and is therefore eligible for the same level of public benefits as a refugee. This serves as a starting point for her being able to apply for benefits. If the client is already working with a Tahirih social worker, HHS typically sends the letter directly to Tahirih. If the client does not have an open social services case, our social services staff can work with the client to get the HHS letter.

### *Obtaining a Social Security Card:*

T nonimmigrants are also eligible (and advised to) obtain social security cards. Your client can obtain a social security card simply by showing her EAD and another form of identification at her social security office. The office locations can be found via: [www.socialsecurity.gov/locator](http://www.socialsecurity.gov/locator).

## **TRAVEL**

**Clients are strongly advised not to travel until they receive their Permanent Residency** (i.e., Green Card). Any client who was in the United States without lawful immigration status has likely accrued "unlawful presence;" departure from the United States may therefore trigger a 3 or 10 year bar to reentry. If this occurs, your client will not be permitted to reenter the United States until a new I-192 Waiver of Inadmissibility is filed and granted, which may take some time.

Additionally, your client should be aware that she is required to demonstrate continuous physical presence (CPP) in the United States in order to be eligible to adjust status (see below). A single trip outside of the United States that is longer than 90 days and multiple trips that are more than 180 days in the aggregate may break CPP.

T nonimmigrants who choose to travel should be strongly advised to consult with an attorney before departing the United States, as they are required to file Form I-131 and obtain advance parole before departing. Please contact your Tahirih attorney if your client is planning to leave the United States to discuss potential implications of such a decision.

## **CLIENTS OR DERIVATIVES OVERSEAS**

If your client or her derivatives are overseas, their T visa may be used to enter the United States; however, it should be noted that this is a separate immigration application/process. After the T visa is approved at the USCIS Vermont Service Center, the file will be sent to the Kentucky Consular Center (KCC) for processing. KCC will then determine which consular post should receive the file and forward it accordingly; you should receive a call from an agent at KCC when this occurs.

The United States consulate in your client's country of origin is responsible for issuing the T visa travel document. Generally, each derivative will need to fill out Form DS-160 ([http://travel.state.gov/visa/forms/forms\\_4230.html](http://travel.state.gov/visa/forms/forms_4230.html)) to begin the consular processing process; s/he will also need a passport to travel. Each consulate has different requirements in order to obtain a travel document and interview, so please consult with your Tahirih attorney mentor for detailed instructions.

Once the derivative is in the United States, s/he should file an I-765 Application for Employment Authorization to obtain an EAD.

#### *Consular Processing with Help from the International Organization for Migration*

The International Organization for Migration (IOM), which has offices throughout the world, coordinates a program that helps reunite families that have been separated by trafficking. If the client is accepted into the program, IOM assists with the logistics of bringing the derivative family members over, including consular processing and arranging and paying for the flight to the United States. From time to time, this program stops accepting new cases due to lack of resources. Therefore, you should be sure to check in with your Tahirih co-counsel about the status of this program.

### **ADJUSTMENT TO PERMANENT RESIDENT STATUS**

T nonimmigrants are typically eligible to adjust their status to Lawful Permanent Resident (i.e., obtain a Green Card) after three years. However, if the investigation or prosecution of the criminal case has concluded, the client may be eligible to apply for adjustment of status immediately.

*In order to adjust status, a T nonimmigrant must demonstrate that:*

1. She was admitted as T nonimmigrant and currently holds T nonimmigrant status
2. Continuous physical presence:
  - She has resided continuously in the United States for 3 years since receiving her T visa, OR
  - She has resided in the United States continuously during the investigation or prosecution of the acts of trafficking, and the Attorney General has determined that the investigation or prosecution of the criminal case has concluded.
  - PRACTICE TIP: Your client should be advised to keep copies of official documents such as tax, employment, and/or school records; rent or mortgage payments; and utility or phone bills so that she can demonstrate her continuous physical presence.
3. She is a person of good moral character (criminal background check required)
4. Cooperation/Hardship:
  - She has complied with any reasonable request for assistance in the investigation or prosecution of the acts of trafficking, OR
  - She would suffer extreme hardship involving unusual and severe harm upon removal from the United States

5. She is admissible to the United States as a lawful permanent resident:

- If she is inadmissible due to health-related grounds, as a public charge, or any other ground (except for those listed below), or if the activities rendering the client inadmissible were caused by or were incident to the trafficking victimization, she must demonstrate it is in the national interest for her to remain in the United States
  
- No waiver is available if she is inadmissible due to security and terrorism related grounds, international child abduction, or as a former citizen who renounced citizenship to avoid taxation.

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