

Interview

A Guide to Immigration Red Tape

An Interview with Philip H. Teplen,
Founding Attorney, Teplen & Associates, PLLC, New York



Philip H. Teplen

EDITORS' NOTE During his 20-year career as an attorney, Philip Teplen has represented thousands of individual, corporate, and institutional clients in the United States and internationally in the resolution of U.S. immigration issues and associated legal matters. A regular contributing expert on immigration issues to national and international media, Teplen has been a member of the American Immigration Lawyers Association since 1984, and was admitted to the New York State Bar in 1983. He holds a J.D. from Brooklyn Law School, a B.S. degree in business administration from Georgetown University, and completed graduate studies at the Oxford University Centre for Management Studies.

COMPANY BRIEF Founded in 1983 and based in New York, Teplen & Associates, PLLC, assists companies and individuals with the legal requirements surrounding relocation to the United States, on both a temporary and permanent basis. Its wide-ranging practice covers such areas as nonimmigrant and immigrant visas, family petitions, labor certifications, employment authorization, investment, J-1 waivers, deportation defense, asylum applications, naturalization, and employer compliance.

Your law firm helps companies bring

employees into the United States from other countries. Did this process become more difficult after 9/11?

Yes, it did. The Patriot Act and the country's enhanced protectionism have increased the level of scrutiny applied to immigration issues. Unfortunately, this is hamstringing a lot of economic growth in the United States. One problem is a reduction in the number of H visas being granted. An H visa can be issued quickly for up to six years to a foreign professional with the equivalent of a U.S. bachelor's degree or higher. In 2003, Congress reduced the quota of allowable H visas by two-thirds, with a view to encouraging U.S. industry to hire from within and thereby lower the unemployment rate. However, a lot of businesses are instead seeking alternative visas for foreign workers or are outsourcing a proportion of their work abroad.

How does your company help businesses address these issues?

The help we provide depends on the nature of each individual company. If the company is multinational, we look at how it can balance human resources between its U.S. and non-U.S. offices. In that regard, we would help the company develop plans to move people with relative ease – for example, by creating visas under the L category. L visas are for intra-company transferees and are an important immigration tool for multinational companies. Another useful visa is the E visa for employees and entrepreneurs with specialized knowledge who are transferred for the purpose of supervising an investment.

You mentioned a growing trend toward outsourcing. In terms of economic growth, is this a positive or negative development?

In my view, outsourcing causes a number of problems. Many people believe that outsourcing is a way to save money. In reality, outsourcing is often quite expensive. A company has to create a middle layer of management in the United States, to manage the outsourced office. Staff abroad is never as well trained or knowledgeable about the company as staff working in the home offices. And

because of the different time zones, you can never manage them in real time. Plus, outsourced labor has a higher attrition rate, so you are constantly retraining your outsource employees. Accordingly, I believe that by outsourcing work, U.S. companies are actually bidding up the cost of foreign labor. So, in many ways, outsourcing is an expensive and short-sighted option.

What advice would you give to the heads of human-resources departments in major corporations, who have to work within the current regulations?

It certainly helps to think strategically and plan ahead, and to work with various departments within the corporate structure to better define human-resources needs and determine what skill sets are required.

Compliance is another area that deserves attention. As part of the increased focus on homeland security, I foresee that immigration officials will carry out more audits of corporate personnel records to make sure that employers are hiring people who are in the country lawfully. As such, human-resources departments need to stay on top of the paperwork. It is not necessary to file documentation with the government, but they do need to maintain it in their office, in what is called a "public folder" for review by the government if required. If that material is either not there, or not prepared properly, civil – and possibly criminal – penalties may apply. So it's prudent for human-resources departments to carry out annual audits of their personnel records, just as a company would audit its accounts.

Is your firm able to assist in that process?

Absolutely. There's value to be gained from employing the services of an independent expert who can provide verification and compliance. That helps companies stay lawful, and it helps in their reporting to stockholders. And, in the event of a government audit, it's very useful to be able to produce the proper documentation, to show that the corporation has done everything in its power to maintain compliance. ●