

How Priority Dates and Cross-Chargeability Affect Your Green Card Timeline

Have you ever wondered why Indian nationals working in the U.S. often wait for several years before they get a green card? This is because the U.S. issues a fixed number of immigrant visas (resulting in green cards) each year, for all employment-related categories. This causes a backlog of people waiting in the green card visa queue, often spanning several years. Central to understanding this process is the concept of a priority date, which determines an applicant's place in line for a green card and influences when they can file for adjustment of status or consular processing.

No country can obtain more than 7% of the family or employment-based visas in a fiscal year that runs from October 1 of one year through September 30 of the following year. In employment-based immigration, this roughly translates to 9,800 visas per country. For nationals of countries with high demand, such as India, Mexico and China, this limit can result in significant backlogs, while applicants from countries with lower demand may receive visas much more quickly.

Visa numbers are allocated based on a person's birthplace and not on nationality. So, a person born in India will be counted towards the 7% quota for India even if the person has acquired citizenship of another country.

Reading the Visa Bulletin

Every month, thousands of foreign nationals stuck in the visa queue review the U.S. Department of State's (DOS) Visa Bulletin, which contains information about what priority dates are being processed and helps determine potential wait times for a green card. The Visa Bulletin is published by the USCIS and the DOS and it lists current priority dates, cut-off dates and filing dates for each visa category. Checking it regularly helps you track your place in line and plan for your immigration journey.

What is a Priority Date?

A priority date is typically the date on which the applicant's immigrant petition is filed with U.S. immigration authorities. This date determines when the applicant can move forward in the green card process based on visa availability.

This date establishes your place in line for a green card, which is crucial because the number of visas available each year is limited by law. For EB-2 and EB-3 employment-based categories, which require a Labor Certification (PERM) from the Department of Labor, the priority date is set on the day the Labor Certification is submitted. It is essential to file the I-140 petition before the PERM expires to preserve this date. In contrast, [EB-1 petitions](#) do not require Labor Certification, and the priority date is established on the day the I-140 petition is filed.

Is there any way to get ahead in the visa queue?

It may be possible to get ahead in the visa queue if your spouse was born in a country with a lower demand for immigrant visas under the concept of "cross-chargeability."

How can you leverage cross-chargeability to Navigate Immigration Backlog?

Cross-chargeability is a provision in immigration law that allows certain applicants to benefit from a visa quota associated with a spouse's or parent's country of birth rather than their own. This can significantly reduce wait times, particularly for individuals from high-demand countries.

Spousal cross-chargeability applies when both spouses are migrating to the U.S. together. An applicant from a country with a long backlog can use a spouse's country of birth if it has a shorter wait time. This

provision helps keep families together, preventing separation due to differences in visa availability. Similarly, derivative beneficiaries, such as minor children, may use either parent's country of birth for chargeability. This is particularly important in preventing children from losing eligibility as they age, which could otherwise result in losing their derivative status.

It is important to note that cross-chargeability does not alter your priority date. Instead, it changes which country's visa quota applies to your case. Citizenship, ethnicity, or temporary residence does not influence chargeability; only the country of birth, with exceptions for spousal or derivative cross-chargeability, is relevant.

EB-2 Green Cards for Indian Nationals: Understanding the Process

The EB-2 Green Card is a popular route for skilled professionals from India. U.S. immigration law limits any single country to 7% of employment-based visas each year, which means India has its own priority dates in the Visa Bulletin. High demand from Indian applicants creates longer wait times compared with countries with lower demand.

Once your priority date is established, you can retain it even if you change employers or adjust your visa category. Applicants may also use cross-chargeability, taking advantage of a spouse's or parent's country of birth if it has a shorter backlog, helping families move forward together.

By understanding priority dates, monitoring the Visa Bulletin, and exploring strategies like cross-chargeability or category adjustments, Indian applicants may be able to get ahead in the green card queue.

Procedural Aspects of Claiming Cross-Chargeability

While USCIS and consular officers may recognize cross-chargeability, it is safest to explicitly request it in your application. A detailed cover letter should outline your eligibility, including supporting documentation to verify birth countries and family relationships. Proper documentation ensures that your case is processed under the intended country's quota, avoiding delays or misclassification. In employment-based cases, if you are using spousal cross-chargeability, it is advisable to file both I-485 applications simultaneously and clearly indicate the cross-chargeability request in a cover letter or the Additional Information section of the form.

When to Seek the Help of an Attorney

Consulting an experienced immigration attorney is advisable when navigating priority dates, cross-chargeability, and country-specific backlogs. Many applicants mistakenly believe that citizenship affects visa quotas, but U.S. law considers only the country of birth unless cross-chargeability applies. An attorney ensures filings and documentation are accurate, minimizing delays and avoiding errors that could affect your green card timeline.

Frequently Asked Questions

What is a priority date?

A priority date is the date your immigrant petition is filed or, in the case of EB-2 and EB-3, when your Labor Certification Application is submitted. It determines your place in line for a green card.

Does my current citizenship affect my priority date or visa quota?

No. U.S. immigration law uses your country of birth to determine visa chargeability. Citizenship, ethnicity, or passport held does not change your place in line, except under cross-chargeability rules.

What is cross-chargeability?

Cross-chargeability allows an applicant to use a spouse's or, in some cases, a parent's country to shorten visa wait times, especially for applicants from countries with long backlogs such as India or China.

Can children benefit from cross-chargeability?

Yes. Minor children may be charged to either parent's country of birth to prevent aging out and losing derivative status, provided the parent is immigrating or has already immigrated.

Does cross-chargeability change my priority date?

No. Cross-chargeability affects only the country quota under which your visa is processed. Your priority date remains the date your petition was filed.

Why is this important for Indian nationals?

Indian nationals often face long waits for EB-2 and EB-3 visas due to high demand. Understanding priority dates and cross-chargeability can help families plan their applications strategically and potentially reduce years of waiting.