**Will the Elections Impact EB-5 Visas?**

*Where does the EB-5 Program go from here?*

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With the upcoming Presidential Elections making headlines throughout the United States and the globe, many questions will be unanswered until after the elections. One such question includes- what will happen to the EB-5 program and current pending legislation? To answer the latter question, it is unlikely that pending bills will be pass during the election year. To answer the former, it is unclear what all the changes to the EB-5 program will be.

In 1990, Congress created the direct hire EB-5 program to benefit the U.S. economy by attracting investments from foreign investors. Under the 1990 program, each investor is required to demonstrate that a minimum of 10 new jobs are created as a result of an EB-5 investment of $500,000 or $1 million depending on whether the funds were invested in certain high unemployment or rural areas.

In 1992, Congress launched a pilot program, the Immigrant Investor Regional Center Program, which increased the boundaries of the EB-5 program by allowing the designation of Regional Centers (RC’s) to pool EB-5 capital from multiple investors into targeted employment areas (TEA’s), which include high unemployment or rural areas. Since its inception, the RC program has been renewed and not allowed to expire. The September 30, 2015 sunset date was extended to December 11, 2015, and then to September 30, 2016, resulting in great turmoil within the EB-5 industry. While it is expected that the EB-5 program will continue, it is not clear what additional changes Congress will make.

There will likely be an increase in the minimum investment amount, more rigorous security and reporting requirements, and unified definition of TEA’s. Major potential changes are discussed briefly below:

**Increase in the Minimum Investment Amount-** While the current EB-5 investment in a TEA requires a minimum investment of $500,00 per investor and $1 million in a non-TEA designated area, the new legislation will likely result in an increase to $800,000 in TEA areas and $1.2 million in non-TEA areas. This increase may be done by either USCIS regulation or by Congress.

**More Rigorous Security and Reporting Requirements-** Regional Centers (RC’s) will be required to comply with stricter requirements, including greater compliance for business plans, offering documents, marketing materials, and economic reports. If an RC learns of non-compliance, it must report the information. Parties involved with a RC either directly or indirectly may also be subject to government agency review.

**Unified Definitions of TEA’s**- The proposed legislation will probably result in TEA definitions being state uniform. Additionally, a TEA designation as a “high unemployment” or “high poverty” area will now be valid for 2 years instead of 1 year, starting on the date an application for approval of an investment in a commercial enterprise.

As 20,000 applicants currently wait for adjudication of their cases, with dependents added there are 50,000 cases in the pipeline. Many wonder how the election will impact their futures and those of the EB-5 program. Will the quota be changed? Will the quota counting methodologies be changed? Will old and new quota numbers from prior years be recaptured?