

## CHINA IMMIGRATION

Each year Congress has provided for 170,000 people to become immigrants of the United States from the Eastern Hemisphere, which includes all of the Asian countries. Each independent country is allowed to have a maximum of 20,000 immigrants. China is considered an independent country and is entitled to a maximum of 20,000 immigrant visa approvals. Dependent areas of other countries are allowed a maximum under the new law of 600 people per year. Hong Kong is considered a dependent area of Great Britain and is therefore entitled to a 600 immigration quota.

The place of birth determines which country's immigration quota you fall into regardless of which country you are currently a citizen of. Thus, Chinese born in India come under the India quota and Canadian citizens born in China come under the China quota.

Areas such as China and Hong Kong in recent times have had much more petitions for immigrant status than the allowed quota. How then is the choice made as to which people are to be given immigrant status? The answer is through a system of priority classifications known as preference classifications. If the U.S. is going to allow immigration, it is natural to give preferential consideration to such classes as relatives of citizens or to distinguished professionals, etc.

Spouses and parents of citizens are classified as immediate relatives and are entitled to immigrant classification regardless of quota restrictions on preference categories. The preference categories are as follows:

First Preference	-unmarried children of citizens
Second Preference	-spouses and unmarried children of permanent residents
Third Preference	-professionals and people of exceptional abilities in the arts and sciences
Fourth Preference	-married children of citizens over age 20
Fifth Preference	-brothers and sisters of citizens
Sixth Preference	-workers in short supply
Seventh Preference	-Refugees
Non-Preference	-anybody not qualifying under the preference categories

In all cases, the Immigration service admits new immigrants in order of preference category. Thus, if the first preference uses up the 20,000 quota, then the Second Preference on down becomes closed. If the first four preference categories use the 20,000 quota, then everything below the Fourth Preference closes. In the Hong Kong situation, only the First Preference is current and open. The Second Preference and lower is either oversubscribed or closed. In the case of China, the first seven preference classifications are open as

of November 1976 and the Non-Preference has been closed for well over one and one-half years. Whether or not these lower classifications open will depend on the future demand for China immigrant quota numbers. If demand increases, we may see more of the lower preference categories close and if demand decreases, it is possible the Non-Preference may again open.

The Third, Sixth, and Non-Preference Categories require a Department of Labor Certification to show that a shortage of qualified people exists for the type of work anticipated by the prospective immigrant. Under the Non-Preference classification, the Labor Certification may be waived if the prospective immigrant invests a minimum of \$40,000 in a productive business enterprise in which he is a principal owner, operator, or manager of the enterprise. The enterprise must employ at least one other United States citizen or permanent resident.

On October 7, 1976, the President signed into law a major revision of the immigration code. According to the advanced sheets received by our law office, the major points of the new legislation applicable to China are as follows:

1) Petition for Permanent Resident for people already in the U.S. under a non-immigrant visa will be denied if they continue in or accept unauthorized employment prior to submission of the Permanent Resident application.

2) Any alien who has been approved for Permanent Resident after interview abroad will have one year to exit that country to come to the U.S.

3) Those applying under the 3rd preference as a prospective teacher or professional in the arts or sciences have the benefit of a new rule on labor certifications that places the burden of proving that there are equally qualified citizens or permanent residents willing and able to perform the same services on the Labor Department and

4) Those that applied for permanent resident under the old classification will not need to meet the new requirements where the new requirements are stricter.

For technical questions, you should consult the San Francisco Office of the Immigration Service or an immigration attorney.

*Edward Lau*  
EDWARD LAU