

IMMIGRATION ALERT: TPS FOR VENEZUELAN IN THE UNITED STATES

On March 8, 2021, the Secretary of Homeland Security (DHS) announced the designation of Temporary Protected Status (TPS) for Venezuelan [nationals](#). The TPS period extends to September 2022 (18 months) and applies to those currently residing in the United States. Secretary Mayorkas cited the extraordinarily negative circumstances and poor living conditions in Venezuela as the primary reasons for the TPS.

As a result, and of utmost importance, any Venezuelan national who qualifies for and wishes to be considered for the protected status must file an application by September 5, 2021 (180-days from today, March 9, 2021). Concurrent with the application for TPS, individuals may also apply for employment and travel authorization from U.S. Citizenship and Immigration Services (USCIS). A [Federal Register Notice](#) has been issued today with full details.

We also bring to your attention the availability of Deferred Enforced Departure (DED) for Venezuelan nationals based on the January 19, 2021 presidential memorandum. DED is conferred at the discretion of the president and individuals covered by DED are not subject to removal from the United States for a specific period. For Venezuelans, DED coverage extends through July 20, 2022.

It is very important to note that individuals qualified to apply for TPS should do so regardless of the DED protection from removal. Additionally, only one Employment Authorization Document (EAD) application (Form I-765) needs to be filed per individual who is qualified for TPS and DED.

For all U.S. employers, this DHS announcement should be merged with employment eligibility verification procedures and general awareness for all personnel involved in the Form I-9 processes. We have seen a recent surge in EAD issuance, particularly for asylum applicants with the category code "C08" on their cards. The beginning of the application process for Venezuelan TPS will result in a very large number of new EADs being presented by newly hired individuals across the U.S. Employers must accept the cards for purposes of identity and employment eligibility. When completing Section 2 of the I-9, ensure you enter the information from the EAD in List A only, and don't forget to record

the EAD “Card #” in the space for “Document Number.” Many employers make the mistake of inadvertently entering the “USCIS #” in that field of Section 2 with the potential result of a technical violation during an audit by Immigration and Customs Enforcement (ICE). The newly issued EADs will have the category code “A12” on the face of the cards, as do all TPS recipients.

Our team of I-9 compliance experts can assist your business in navigating the constantly changing rules and [regulations](#) that impact your I-9 compliance program. We stay informed about the latest nuances of preparation and remediation processes and procedures through active and on-going engagements with small, medium, and large sized companies across the country. We are here to help you with any [immigration compliance concerns](#), questions, or identified needs.



JOHN SHOFI

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John Shofi has more than 20 years of government experience in key leadership roles with the U.S. Department of Homeland Security (DHS), in-depth experience at Immigration and Customs Enforcement (ICE), and a widespread knowledge of DHS operations. He provides invaluable insight in matters involving investigative and compliance issues.