



U.S. CHAMBER OF COMMERCE

FY	EB preferences		FB preferences		IR	Recapture	
	Unused ¹	EB Limit ¹	Unused ¹	FB Limit ¹	Uncapped ⁵	Congress acted ⁶	Available for recapture ⁷
1992	21,207	140,000	5,435	227,897	235,484		
1993	0	161,207	3,213	232,483	255,059		
1994	29,430	143,213	6,503	226,000	249,764		
1995	58,694	146,503	0	253,721	220,360		
1996	21,173	140,000	0	311,819	300,430	9,290	11,883
1997	40,710	140,000	0	226,000	321,008	40,710	
1998	53,571	140,000	20,906	226,000	283,368		53,571
1999	98,941	160,906	2,299	226,000	258,584	98,941	
2000	31,098	142,299	52,074	294,601	347,870	31,098	
2001	5,511	192,074	2,632	226,000	443,035		5,511
2002	0	142,299	31,532	226,000	485,960		
2003	88,482	171,532	64,422	226,000	332,657		88,482
2004	47,305	204,422	8,449	226,000	417,815		47,305
2005	0	148,449	3,949	226,000	436,115		
2006	10,288	143,949	7,148	226,000	580,348		10,288
2007	0	147,148	22,704	226,000	494,920		
2008	0	162,704	0	226,000	488,483		
2009	0	140,000	10,662	226,000	535,554		
2010	388	150,662	0	226,000	476,414		388
2011	698	140,000	4,951	226,000	453,158		698
2012	294	144,951	18,466	226,000	478,780		294
2013	0	158,466	10,247	226,000	439,460		
Totals⁴	507,790		275,592			180,039	218,420
	EB numbers lost in allocated year by agency delays in processing. ² In total, since FY92, there were 783,382 immigrant visa numbers not used within the allocated FY of which 65% were EB.		FB numbers lost in allocated year, by agency delays in processing. ² In total, since FY92, there were 783,382 immigrant visa numbers not used within the allocated FY of which 35% were FB.		Dramatically higher IR than in pre-IMMACT90 years has impacted FB limit and left EB spillover unavailable for use by FB or subsequent fall across back to EB.	Already recaptured for EB.	Numbers available for recapture, since no EB or FB preference immigrants have been issued immigrant visas based on these allocated visa numbers.

1 - Data from the 2010 Ombudsman's Report, Table 19 (based on State Department data), except for FY10-13 which is from State Department and FY92 EB and FB limits that were identified according to INA 201(c), (d).

2 - Numbers unused from EB or FB preferences within allocated FY due to agency delays, prior to fall-across and any subsequent year usage.

3 - IMMACT90 codified a new, congressional commitment to avoid having unused preference numbers (the new preference system went into effect FY92 with fall-across starting FY94, the new cap in FY92 was 140,000 for EB and for FB it was 465,000 – FY91 IR). Despite detailed statutory scheme to avoid unused allocated preference numbers: (i) FB has largely been unable (since FY97) to use unused EB because of much higher IR demand than anticipated in 1990 resulting in operation of the FB floor most years after which EB unused never lead to issuance of a preference immigrant visa, and (ii) each year despite fall -across both EB and FB have been left unused due to agency delays within each FY. Notably, since FY07 there has been virtually no unused EB meaning that Congress's objectives are met since numbers that fall-across from FB to EB are used and little is falling across from EB.

4 - FB is tied to IR because $FB\ cap = 480,000 - (IR\ usage\ from\ prior\ FY) + (EB\ unused\ from\ prior\ FY)$ with a 226,000 floor. In the years leading up to IMMACT90 consideration and passage, IR usage was much lower than today (Per INS Statistical Yearbook: FY83 - 177,792; FY84 - 183,247; FY85 - 204,368; FY86 - 223,468; FY87 - 218,575; FY88 - 219,340; FY89 - 217,514). FB limit in FY92, FY93, FY94 was 465,000 - IR in prior FY.

5 - Data from INS Statistical Yearbook (pre FY03) or DHS Yearbook of Immigration Statistics (FY03 onward).

6 - For AC21 recapture, Congress specified it was recapturing EB numbers that did not lead to EB immigrant visa issuance in FY99 and FY00. For REAL ID recapture, Congress recaptured 50,000 EB numbers and allocated them to Schedule A applicants (principally nurses).

7 - The 2010 Ombudsman's Report identifies preference immigrant numbers unused within FYs but does not indicate which numbers were used in subsequent years after fall-across. The preference immigrant numbers in each FY available for recapture action are those that have not been used for preference immigrants. While Congress can act to recapture, or allocate, any immigrant visa numbers it wishes, recapture is likely best viewed as limited to numbers that have not already lead to visa issuance for any preference immigrant.