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FY2011 H-1B Visa Cap Has Been Reached!

Tiyalaw · Sunday, January 30th, 2011

H-1B petitions are temporary work visas for specialty occupation foreign nationals to live and work in the U.S. Many H-1B foreign nationals have successfully gone on to apply for and obtaining green card status.

On January 27, 2011, the U.S. Citizenship and Immigration Services (USCIS) announced that it has received sufficient H-1B cap petitions to meet the statutory cap for the fiscal year (FY) 2011. The final receipt date for H-1B cap petitions is January 26, 2011. This means H-1B cap petitions received after January 26, 2011 will be rejected. H-1B cap petitions received on January 26, 2011 will undergo a computer-generated random selection process to select petitions needed to meet the cap. The USCIS will then reject and return to petitioners all remaining H-1B cap-subject petitions (including fees) that not randomly selected by the computer.

Potential H-1B candidates who do not make it to the Fiscal Year 2011 H-1B visa quota (October 1, 2010 or later start-date) have the options to have their H-1B cap petitions submitted to the U.S. Citizenship and Immigration Services (USCIS) on or after April 1, 2011 (October 1, 2011 or later start-date) for the Fiscal Year 2012 H-1B visa quota. They can also consider other immigration options such as self-petition green card filings, if eligible.

The USCIS has already received over 20,000 of the first 20,000 H-1B petitions for FY2011 that are exempted from the 65,000 visa cap, under the advanced degree exemption which applies to an H-1B beneficiary who has successfully obtained a U.S. Master's degree or higher.

Not all H-1B petitions are subject to the annual visa cap, depending on the types of H-1B petition being filed, and the types of entity-sponsor. For examples, foreign nationals who already have approved H-1B petitions or H-1B status can still have H-1B petitions filed for them to extend their H-1B status or to change H-1B employers. These H-1B petitions are not subject to the annual visa cap.

Normally, H-1B petitions/work visas are approved for three years each time (up to a total maximum of 6 years).

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We represent employers, and individuals and their families in green card and work visa matters in U.S. immigration law.

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