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As of April 15, 2011, the U.S. Citizenship and Immigration Services (USCIS) has received 7,100 H-1B Regular Cap, and 5,100 H-1B Master's Exemption 20,000. These numbers include cases that are still pending or have been approved but do not include petitions that have been denied.

H-1B petitions are temporary work visas for foreign nationals to live and work in the U.S. Many H-1B foreign nationals have successfully gone on to apply for and obtain green card status. Foreign nationals with at least a bachelor's degree or the equivalent (equivalent degree or work experience) may be sponsored for H-1B petitions. A broad range of positions may fall under H-1B specialty occupations; each case depends on a position's own set of duties.

On April 1, 2011, the USCIS began accepting H-1B nonimmigrant petitions that are subject to the government-mandated annual H-1B cap of 65,000 and the 20,000 U.S. advanced degree cap exemption. The advanced degree exemption applies to an H-1B beneficiary who has successfully obtained a U.S. Master's degree or higher. These H-1B petitions are for Fiscal Year 2012 (FY2012) visa quota (for employment start-date of October 1, 2011 or later). The FY2011 visas quota (for October 1, 2010 start-date or later) was already closed on January 27, 2011.

H-1B petitions filed under premium processing (faster processing of certain employment-based petitions and applications) during an initial five-day filing window are undergoing a 15-day processing period that began on April 7, 2011. For all other H-1B petitions filed for premium processing, the processing period begins on the date that the petition is physically received at the correct USCIS Service Center.

When the H-1B cap is exhausted is the date USCIS will inform the public that the cap has been reached, and this may differ from the actual final receipt date. In ensuring a fair system, on the final receipt date, the USCIS may utilize the random selection

approach by selecting the number of petitions that will be considered for final inclusion within the cap. The USCIS will reject H-1B cap petitions that are not selected, as well as those received after the final receipt date. The final receipt date will be the date USCIS physically receives the petition, and it is not based on the date that the H-1B petition has been postmarked.

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.

In general, H-1B petitions/work visas are approved for three years each time (up to a total maximum of 6 years). Under certain circumstances, H-1B work visas can be extended beyond the 6-year maximum time limitation.

Potential H-1B candidates who do not make it to the Fiscal Year 2012 H-1B visa quota (October 1, 2011 start-date or later) have the options to have their H-1B cap petitions submitted or resubmitted to the USCIS on or after April 1, 2012 (October 1, 2012 start-date or later) for the Fiscal Year 2013 H-1B visa quota. They can also consider other immigration options such as self-petition green card filings, if eligible.

By Aik Wan Kok Fillali, Attorney at Law, at Tiya PLC; Tel: 703-772-8224
www.tiyaimmigration.com ; http://tiyalaw.blogspot.com ; www.immigrationresource.net

We represent employers, and individuals and their families in green card and work visa matters in U.S. immigration law. We also have a focus on self-petition green card cases such as extraordinary ability and national interest waiver.

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