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H-1B Annual Work Visa Cap

On April 5, 2013, the U.S. Citizenship and Immigration Services (USCIS) has received a high number of H-1B Cap Petitions and reached the 65,000 statutory cap for the 2014 fiscal year (FY). The USCIS has received more than 20, 000 H-1B Cap-Exempt Petitions for those under the U.S. advanced degree. During the period up to and including April 5, 2013, the USCIS around 124,000 H-1B petitions in total. After April 5, 2013, USCIS will not accept any more H-1B Cap Petitions and U.S. advanced degree H-1B Cap Exempt Petitions, for FY 2014.

On April 7, 2013, USCIS conducted computer-generated random selection process (lottery) to select a sufficient number of petitions needed to meet the caps of 65,000 for the H-1B cap category and 20,000 under the advanced degree exemption limit. Those not selected will be returned with filing fees. Random selection was conducted first for advanced degree H-1B petitions

USCIS received approximately 124,000 H-1B petitions during the filing period, including petitions filed for -1B Cap-Exempt Petitions for those under the U.S. advanced degree, and those not selected were processed under the 65,000 limit.

For this H-1B cap-season purpose only, USCIS will begin premium processing for

H-1B cap cases on April 15, 2013.

What is an H-1B?

H-1B petitions are temporary work visas for positions requiring theoretical or technical expertise in specialized fields for qualified foreign nationals to live and work in the U.S. Many H-1B foreign nationals have successfully gone on to apply for and obtain lawful permanent residence status (also known as, green card).

Foreign nationals with at least a bachelor's degree or the equivalent (equivalent degree and/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 circumstances.

Some H-1Bs Are Not Subject to H-1B Annual Work Visa Cap

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

Duration of H-1B

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

H-1Bs Not Selected or Filed When All H-1B Annual Work Visas Are Used Up

Potential H-1B candidates who do not make it to the Fiscal Year 2013 H-1B visa quota (October 1, 2012 employment start-date or later) have the options to have their H-1B cap petitions submitted or resubmitted to USCIS on or after April 1, 2013 (October 1, 2013 employment start-date or later) for the Fiscal Year 2014 H-1B visa quota. They can also consider other immigration options such as other nonimmigrant work status

and self-petition green card filings, if eligible.

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We represent employers, and individuals and their families in green card, citizenship and work visa matters in U.S. immigration law. We also have a focus on green card cases such as extraordinary ability, national interest waiver, PERM, family; work and related visa matters such as H, L, P, O, E, K.

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