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On November 23, 2011, the U.S. Citizenship and Immigration Services (USCIS) announced that it has received sufficient H-1B petitions to meet the 65,000 statutory H-1B cap. Nov. 22, 2011 was the final receipt date for new H-1B specialty occupation petitions requesting an employment start date (October 1, 2011 or later) in Fiscal Year 2012 (FY 2012). Any petitions arrived on November 23, 2011 or after will be rejected. The USCIS will begin accepting H-1B cap petitions again on April 1, 2012 for employment start-date of October 1, 2012 or later.

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 and circumstances.

On April 1, 2011, the USCIS began accepting H-1B nonimmigrant petitions that were subject to the government-mandated annual H-1B cap of 65,000 and the 20,000 U.S. advanced degree cap exemption for FY 2012. 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 were for Fiscal Year 2012 (FY2012) visa quota (for employment start-date of October 1, 2011 or later), and as of November 23, 2011, the FY2012 visas quota (for October 1, 2011 start-date or later) for the 65,000 visa quota has already been closed on November 23, 2011. As of October 19, 2011, USCIS had also received more than 20,000 H-1B petitions filed on behalf of persons exempt from the cap under the 'advanced degree' exemption.

When the H-1B cap is exhausted is the date USCIS informs the public that the cap has been reached (for this year, it was November 23, 2011 – visa quota for FY 2012). The final receipt date is 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 may still have H-1B petitions filed for them such as 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 have not made 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.

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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, national interest waiver and PERM labor certification.

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