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Live and Work in U.S.: We Can File H-1B Cap Cases, Starting April 1, 2010!

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Qualified foreign nationals who wish to live and work in the U.S. may start applying for first-time H-1B Petitions starting April 1, 2010. These H-1B Cap Petitions will have a start date of October 1, 2010 or later, and will be counted towards the annual H-1B visa quotas for the 2011 fiscal year (FY 2011).

The fiscal year cap (numerical limitation on H-1B petitions) for FY 2011 is 65,000; 65,000 is the annual visa cap, unless otherwise increased by Congress. Moreover, the first 20,000 H-1B petitions filed on behalf of individuals who have earned a U.S. master's degree or higher are exempt from the H-1B cap.

H-1B Petition is a type of business-sponsored or employer-sponsored temporary work visa for a qualified foreign national to live and work in the U.S., based on the terms and conditions of the approved H-1B Petition.

Normally, a foreign national who is applying for H-1B Petition for the first time will be subject to the annual visa quota, but there are exceptions. Typically, an H-1B beneficiary can hold H-1B status for up to a maximum of 6 years; however, there are certain exceptions. For example, a foreign national may be eligible to extend an H-1B status beyond 6 years, such as until (s)he receives green card status. An H-1B Petition is normally approved for 3 years, and can then be extended for another 3 years. An H-1B beneficiary may bring his/her family (spouse, and children up to a certain age) into the U.S. as dependents.

Foreign nationals and their H-1B sponsors may initiate their H-1B Cap Petitions, in advance, in order that their H-1B Cap Petitions can reach the U.S. Citizenship and Immigration Services (USCIS) on April 1, 2010. For many years, H-1B visa quotas were exhausted within the first few days of April 1st. and during those years, it was crucial for those H-1B Cap Petitions to reach the USCIS on April 1. However, in 2009, due to the economic downturn, the H-1B visa quotas for the 2010 fiscal year (for October 1, 2009 employment start-date or later) were not exhausted until December 2009.

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