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Immigration Magazine

## US Immigration Completes its Random Selection Process for 2017 H-1B Cap

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H-1B Annual Work Visa Cap

On April 1, 2016, the U.S. Citizenship and Immigration Services (USCIS) began accepting H-1B Cap Petitions for the annual 65,000 government-mandated cap for the 2017 fiscal year (FY), and the 20,000 exemption for H-1B under the U.S. advanced degree. On April 7, 2016, USCIS announced it had received more than sufficient H-1B Cap Petitions to meet the cap.

USCIS received over 236,000 H-1B Cap Petitions described above. On April 9, 2016, USCIS started its computer-generated random selection process (lottery system) and the selection is now complete.

Those under U.S. advanced degree not selected within the 20,000 visa numbers will be processed under random selection or lottery for the 65,000 limit. All H-1B Cap Petitions above not selected in the lottery system will be returned with their filing fees. The filing fees for any H-1B Cap Petitions above with duplicate filings will not be returned.

USCIS plans to process the above H-1B Cap Petitions selected in the lottery system no later than May 16, 2016. However, in prior H-1B cap-seasons, USCIS began premium processing for selected H-1B Cap cases a few weeks after April 1.

What is an H-1B?

H-1B petitions are temporary work visas for specialty occupations. They are 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 the position's overall circumstances, necessitating complex legal analysis.

Some H-1Bs Are Not Subject to H-1B Cap or Quota

Not all H-1B petitions are subject to the annual visa cap or quota. It depends 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. Certain employers are cap exempt.

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 Visa Numbers Are Used Up

Potential H-1B candidates who do not make it to the Fiscal Year 2017 H-1B visa quota (October 1, 2016 employment start-date) have the options to have their H-1B cap petitions submitted or resubmitted to reach USCIS on April 1, 2017 (with an October 1, 2017 employment start-date) for the 2018 Fiscal Year H-1B visa cap/quota. They can also consider other immigration options such as other nonimmigrant status, work permit, and self-petition green card filings, if eligible.

This article is intended for informational purposes only, and should not be relied on as legal advice or attorney-client relationship. By Aik Wan Kok, Lawyer USA Immigration Services, at Tiya; Tel: 703-772-8224 & koka at tiyalaw dot com; Direct dial from abroad: 001-703-772-8224; https://www.tiyaimmigration.com ; http://tiyalaw.blogspot.com ; https://immigrationresource.net

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within the U.S. and internationally. We represent diverse immigration cases in naturalization/citizenship, green card, work visas, waiver and other immigration matters. Some of our cases including, but are not limiting, extraordinary ability; national interest waiver; PERM with Department of Labor; I-130 for sponsoring relatives and families (child, spouse, brother, sister, stepchild); I-140 for employment; I-485 to adjust status; I-765 work permit/employment authorization; I-131 for international travel and returning to the U.S; I-601 extreme hardship waiver for spouse, parent, son and/or daughter or child of U.S. citizen or green card holder; I-751 joint filing or waiver; I-212 waiver for deportation or removal order; J waiver; H-1B professional worker/specialty occupation; H-2B temporary worker; L executive, manager and specialized knowledge professional transferring from overseas; B-1 business visitor to the U.S.; B-2 tourist visiting the U.S.; F-1 student coming to study in the U.S.; consular processing with U.S. consulates; consular processing via National Visa Centers; filing cases with the USCIS; filing cases with the U.S. Department of Labor; PERM audit; RFE Request for Evidence by USCIS; NOID Notice of Intention to Deny from USCIS; and Immigration Courts.

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