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USCIS Reaches 2017 H-1B Visa Cap/Quota

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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 had received more than sufficient H-1B Cap Petitions to meet the cap. Due to the overwhelming numbers of H-1B Cap Petitions received, USCIS is not yet certain when it will conduct its computer-generated random selection process (lottery).

Those under U.S. advanced degree not selected within the 20,000 visa numbers will be processed under random selection for the 65,000 limit.

For 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 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, and each case depends on a position's own set of circumstances necessitating complex legal analysis.

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 2017 H-1B visa quota (October 1, 2016 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, 2017 (October 1, 2017 employment start-date or later) for the Fiscal Year 2018 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.

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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