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H-1B Annual Work Visa Cap

On April 1, 2015, the U.S. Citizenship and Immigration Services (USCIS) will begin accepting H-1B Cap Petitions for the annual 65,000 government-mandated cap for the 2015 fiscal year (FY), and the 20, 000 exemption for H-1B under the U.S. advanced degree.

In April 2014, the USCIS received many more petitions than the visa quota. As such, the USCIS selected cases based on random selection process (lottery). On April 7, 2014, USCIS had received 172,500 H-1B Cap Petitions. The USCIS finished its computer-generated random selection process (lottery) on April 10, 2014. Those under U.S. advanced degree not selected within the 20,000 visa numbers was processed under random selection for the 65,000 limit.

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), and then U.S. citizenship.

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

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