

Services

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H-1B Season Is Here

U.S. businesses often use the H-1B visa classification to employ non-U.S. workers in positions requiring a college degree or the equivalent. In most cases, H-1B classification conveys work authorization for a period of up to six years. The law sets a limit of 65,000 new H-1Bs per fiscal year, with an additional 20,000 set aside for workers with a master's degree or higher. These limits are known as the "H-1B caps." In 2013, the H-1B cap was exceeded for both categories in the first week applications were accepted. Many employers were disappointed when their applications were rejected in the ensuing lottery conducted to select the applications that would be accepted for processing under the caps.

Because of the improving economy and the backlog of demand from last year, an even larger shortfall is expected this year. Because of the existence of the caps, and because applications for new H-1B positions can be made no more than six months prior to the October 1 start of each new federal fiscal year, April 1 is the filing goal each year. The weeks leading up to that date have become known as "H-1B season," as employers and their counsel work to prepare H-1B cases for filing. Applications approved this year will be effective October 1, 2014.

Many foreign national students enter into a period of employment called Optional Practical Training (OPT) after graduation from a U.S. university. When that OPT period expires, the former student must either change to a work-authorized status or cease the employment. Often H-1B classification is the only available solution to continue employment. For those employers wishing to continue the employment of one of these new graduates or to hire any other foreign national who will need new H-1B work authorization to accept employment, the time has come to begin preparing the H-1B petitions. Workers already in H-1B status who will simply be changing employers are not subject to the caps and can apply any time during the year.

What This Means to You

Petitions filed after the first week of April will likely not be accepted for filing, and, barring new legislation to permit it, petitions will not be accepted again until April 1, 2015. It is time now to begin preparing applications for an October 1, 2014 H-1B effective date.

Contact Us

To begin your H-1B petition or to obtain assistance in evaluating your need to apply, contact Toni Blackwood.