

**H-1B Filing Date is April 1, 2015:**  
**Last Year's H-1B Cap was Exceeded on April 1, 2014!**

The H-1B is the most popular visa category to employ foreign nationals, as it allows professionals with a bachelor's degree to work in the U.S. Unfortunately, H-1Bs are subject to an annual numerical cap, requiring all employers to plan and file far in advance, to have the opportunity to obtain an H-1B.

H-1B petitions for Fiscal Year 2016 (October 1, 2015 to September 30, 2016) may be filed starting on April 1, 2015, since an H-1B petition may be filed up to six months prior to the requested start date. Given the likelihood that H-1Bs will run out on the first day of filing like last year, it is crucial to start preparing now in order to be able to file on April 1<sup>st</sup>.

In 2014, the 65,000 cap on H-1Bs available during Fiscal Year 2015 (October 1, 2014 to September 30, 2015) was exceeded on April 1<sup>st</sup>. U.S. Citizenship and Immigration Services (USCIS) received approximately 172,500 H-1B petitions during the filing period. On April 7, 2014, USCIS used a computer-generated random selection process (commonly known as a "lottery") to select a sufficient number of petitions needed to meet the caps of 65,000 for the general category and 20,000 under the advanced degree exemption limit. Petitions not randomly selected were rejected and returned with filing fees. USCIS conducted the selection process for advanced degree exemption petitions first. All advanced degree petitions not selected were part of the random selection process for the 65,000 limit.

The H-1B cap affects both foreign nationals who are applying to work in the United States in H-1B status for the first time, as well as foreign nationals in other nonimmigrant statuses, such as B, F, J or H-4, who request a change of status to H-1B. It is particularly important for foreign students working pursuant to the Optional Practical Training (OPT) portion of their F-1 status to pay attention to the expiration of their work authorization. Given the long delay between filing dates, anyone who is currently working on OPT should be considered for an H-1B filing on April 1, 2015.

In order to be able to file on April 1<sup>st</sup>, we recommend starting the process as soon as possible to ensure that we have enough time to obtain the certified Labor Condition Application (LCA) from the Department of Labor (DOL), which is a prerequisite to filing the H-1B petition to USCIS. Please note that the regulations allow DOL up to seven working days to certify an LCA.

The H-1B cap causes significant disruptions for both employers and prospective employees. Since it is likely that the H-1B cap will be reached immediately on April 1<sup>st</sup>, it is crucial to start preparing now in order to ensure the ability to file on time!

For more information on H-1Bs or any other Immigration Law issues, please contact Savitz Law Offices by visiting [www.ImmigrationOptions.com](http://www.ImmigrationOptions.com), e-mailing questions to Bennett Savitz at [BSavitz@ImmigrationOptions.com](mailto:BSavitz@ImmigrationOptions.com), or calling 617-723-7111.