

Immigration Alert: H-1B Cap Update: Visas Going Quickly

12/2/2009

On November 27, 2009, United States Citizenship and Immigration Services (USCIS) announced that 58,900 H-1B petitions out of the regular quota of 65,000 have been received since April 1, 2009. The special quota of 20,000 for foreign nationals with U.S. master's degrees was exhausted earlier in the year. This 58,900 number already exceeds 58,200, the quota for regular H-1Bs after subtracting the 6,800 H-1B1 numbers which are reserved solely for nationals of Chile and Singapore pursuant to free trade agreements.

However, the USCIS announcement indicates that the agency "will continue to accept both cap-subject petitions and advanced degree petitions until a sufficient number of H-1B petitions have been received to reach the statutory limits, taking into account the fact that some of these petitions may be denied, revoked, or withdrawn." In addition, USCIS has the regulatory authority to utilize unused Chile/Singapore free trade visas from the previous fiscal year and may also allow regular H-1B filings based on low estimates of Chile/Singapore free trade filings in previous years. Therefore, it is unknown exactly how much longer USCIS will continue to accept H-1B filings. As indicated in [our previous H-1B Cap Update](#), a significant increase in the pace of H-1B filings was detected in September and has shown no signs of slowing. This new uncertainty about when the quota will be met means cap-subject employers who are considering first-time H-1B filings should commit as soon as possible.

Please contact a member of the Mintz Levin Immigration Section for additional information regarding the H-1B visa program, or if you have a particular candidate in mind for H-1B status.

For assistance in this area, please contact one of the attorneys listed below or any member of your Mintz Levin client service team.

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