

North Carolina Law Life

Here Comes the Cap: The H-1B Cap Will Soon Be Reached.

By: Oliver Branch. *This was posted Tuesday, December 15th, 2009*

On December 14, 2009, [United States Citizenship and Immigration Services \(USCIS\)](#) announced that 62,500 [H-1B cap-subject petitions](#) have been filed. Remarkably, this is a 1,000 petition increase over the 61,500 USCIS announced it has received on December 8, 2009.

The H-1B visa is among the most coveted by U.S. employers because it allows foreign workers in speciality occupations with only a bachelor's degree to be employed by the company. For many years, the H-1B has been a vital component for many company's staffing needs.

Currently, U.S. law limits the number of H-1B visas to 65,000 per fiscal year (excluding H-1B non-immigrants who work at universities and non-profit research facilities). Laws also exempt up to 20,000 foreign nationals holding a master's or higher degree from U.S. universities from the cap on H-1B visas.

In recent years, the H-1B non-masters cap has been met on April 1, the first possible day to file such petitions. However, this has been an unusual year with the cap having not been met as of December 14 (yesterday). This drastic change is most likely attributed to two things: (1) current economic conditions affecting company growth and staffing needs and (2) the tightened rules on filing H-1B petitions for companies who have received TARP funding.

If your company wishes to hire an H-1B employee, it is imperative that the petition be filed as soon as possible. Once the cap has been met, employers will have to submit H-1B petitions starting April 1, 2010 for employment beginning October 1, 2010.

For more information on H-1B visa, please see our [previous blog posts](#). If your company is interested in hiring an H-1B worker, please [contact our offices](#) as soon as possible.

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