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## PRACTICE AREAS

### BUSINESS

L-1 Visas

H-1B

H-1B Transfers

Visas

TN Visas (NAFTA)

Special Visas for Other Countries

Australia

Chile / Singapore E-1

E-1 Visas

E-2 Visas

PERM Labor Certification

### HOSPITALS /HEALTHCARE

H-1C Visas

H-1B Visas for Doctors

### FAMILY

Spouse / Fiancee Visas

Permanent Residence for Family  
Within U.S.

Naturalization / Citizenship

### AMNESTY

## Window Closing On H-1B VISAs for Foreign Workers

Posted: March 23rd, 2010

U.S. employers continue to have an insatiable need for talented professionals trained outside of our borders, as evidenced by the fact that the H-1B visa program for foreign workers in specialty occupations (such as architects, engineers, doctors and programmers) is no longer accepting applications for the Fiscal 2010 year. New H-1B applications for the Fiscal 2011 year will be accepted by USCIS on April 1, 2010.

The Department of U.S. Citizenship and Immigration Services (the "USCIS") announced in December of 2009 that it also had received more than 20,000 applications for advanced degree exemptions for foreign workers (the statutory limit of applications that can be granted is 20,000). New H-1B applications for the Fiscal 2011 year for advanced degree individuals will also be accepted by USCIS on April 1, 2010.

At first glance, it would appear that employers who have waited to act on their need for foreign professional support in 2010 might be a bit late already, but there are still a few legal windows open to those who seek the assistance of experienced counsel.

For example, you might qualify for the **H-1B1** status/application for workers having a body of specialized knowledge and coming from specific countries with which we have free trade agreements (i.e., Chile and Singapore). You may also be able to sponsor Canadian and Mexican citizens by using the **TN** nonimmigrant work visa category that is available to US employers under NAFTA.

You also might qualify for the H-2B status/application for workers serving industries with peak loads, or seasonal or intermittent needs (typically, but not limited to construction, health care, manufacturing, food service, and hospitality industries).

It is also important to note that USCIS will continue to process petitions filed to:



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### AMNESTY

Extend the amount of time a current H-1B worker may remain here;

Change the terms of employment for current H-1B workers;

Allow current **H-1B** workers to change employers (so they can shift between subsidiaries or be traded for other workers);

Allow current H-1B workers to work concurrently in a second H-1B position (so the work capacity of your existing H-1B workforce can be expanded).

Demand for foreign workers is clearly increasing and competition for visas is keen, so you should seek counsel immediately if you plan to use or continue using foreign trained employees in 2010 and subsequent years.

It is very important to have counsel from someone who understands the **USCIS** rules and to check with **immigration counsel**.