

Immigration Alert: April 1st Deadline for Filing H-1B Worker Petitions Approaches

3/22/2010

We are sending this alert as a reminder of the rapidly approaching **April 1, 2010** “deadline” for the filing of H-1B worker petitions for Fiscal Year 2011. Petitions for the new fiscal year will be accepted by the government on April 1st.

As we have informed you in the past, Congress has placed a numerical “cap,” or limit, on H-1B visas. For FY 2011, the limit is 65,000, with an additional 20,000 available for individuals who have earned a U.S. master’s degree or higher.

In recent years, the cap has been exhausted in the first few days of April. Last year, however, the cap was not exhausted until mid-December, due to the downturn in the economy and corresponding slow hiring rates. While we continue to be in an economic downturn, there are promising signs that the economy is beginning a recovery, so there is no way to predict when this year’s H-1B quota will be exhausted. Therefore it is important to finalize H-1B petitions *now*, especially since each petition requires certification by the Department of Labor (DOL) of a Labor Condition Application (LCA). DOL regulations allow for up to **seven working days** to certify the LCA.

We will of course work with you on filing these petitions right up until April 1st, and afterwards, for as long as the visas last. Rather than wait, we strongly advise clients to finalize their H-1B petition decisions by **March 23, 2010** if possible.

If you have responsibility for your firm’s immigration planning and processing and you have already identified H-1B candidates, please initiate the H-1B petition process as soon as possible. Simply send us via e-mail the job title, proposed salary, and full name and basic contact information for the H-1B candidate, and we can reach out to you and to the employee to begin the process.

As always, we are prepared to strategize with clients regarding those potential employees who either do not qualify for H-1B status or who have a gap in their employment eligibility prior to the start of the next fiscal year.

We will send regular updates after April 1st regarding the status of the H-1B quota.

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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