

FEBRUARY 14, 2012

April 1 Deadline for Filing H-1B Visa Petitions Approaches

This alert is a reminder of the rapidly approaching April 1, 2012 “deadline” for the filing of H-1B worker petitions for Fiscal Year 2013. Petitions for the new fiscal year will be accepted by the government beginning April 1. U.S. Citizenship and Immigration Services (USCIS) will continue to accept new H-1B petitions after April 1, 2012 until the H-1B cap is reached. We encourage you to identify any employees now who may require H-1B sponsorship so that a petition may be filed well before the H-1B numbers for the next fiscal year are exhausted.

Congress has placed a numerical “cap,” or limit, on H-1B visas. For FY 2013, the limit is 65,000, with an additional 20,000 available for individuals who have earned a US master’s degree or higher. In past years, the cap has been reached in the first few days of April. While last year’s cap was not met until November, there are promising signs that the economy is recovering for this coming H-1B season. There is no way to predict when this year’s H-1B quota will be exhausted. Therefore, it is important to prepare H-1B petitions for filing by March 30, 2012 to improve your chances of securing visas for H-1B candidates.

We will 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, 2012 if possible, particularly 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.

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 application 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.

After April 1, we will send regular updates on the status of the H-1B quota.

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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.

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1653-0212-NAT-IMM