



Wednesday, October 10, 2007

THE ANNUAL QUOTA FOR H-2B VISAS FOR TEMPORARY WORKERS HAS BEEN REACHED FOR THE FIRST HALF OF FISCAL YEAR 2008 (OCTOBER 1, 2007 THROUGH MARCH 31, 2008)

“Returning Worker” Provision Sunsets, Reducing Overall H-2B Visa Availability Each Fiscal Year

On October 1, 2007, on the first day of Fiscal Year 2008, U.S. Citizenship & Immigration Services (CIS) announced that, as of September 27, 2007, CIS had received enough H-2B Petitions to exhaust the statutorily mandated cap of 33,000 H-2B visa numbers for the first half of Fiscal Year 2008 (October 1, 2007 through March 31, 2008).

Pursuant to temporary relief from the H-2B cap during Fiscal Year 2007, petitions on behalf of H-2B “returning workers” awarded H-2B status during the previous three fiscal years did not count toward the annual numerical limitation on H-2B numbers for Fiscal Year 2007. The “returning worker” provision of current law has now sunset. Absent statutory reauthorization for the provision, the availability of H-2B visas in a fiscal year is effectively reduced by two thirds from the previous fiscal year, as even petitions for returning workers are now counted against the annual quota.

The CIS will continue to accept petitions seeking an extension of H-2B status filed on behalf of existing H-2B workers who have not yet exhausted their H-2B eligibility. Additionally petitions for a change of employer, addition of employer, or a change in the terms and conditions of H-2B employment may still be filed.

For more information on the impact of the H-2B cap in a particular case, or to enlist the assistance of Tindall & Foster, P.C. in your company’s advocacy efforts for relief from the temporary worker shortage, please contact your Tindall & Foster immigration attorney. Your Tindall & Foster attorney will be able to assist you in evaluating immigration options to meet your company’s needs, and will be happy to work with you to help educate your Senators and Congressional Representatives for H-2B relief.