



EMAIL BULLETIN

U.S. CITIZENSHIP & IMMIGRATION SERVICES (CIS) ANNOUNCES THE FISCAL YEAR 2008 H-1B ADVANCED DEGREE EXEMPT VISA CAP OF 20,000 WAS REACHED ON APRIL 30, 2007

8 May 2007

H-1B Extension Petitions or Changes of H-1b Employer Are Unaffected by the H-1B Cap

Each Fiscal Year 20,000 Advanced Degree Exempt H-1B visa numbers are made available for candidates who hold at least a U.S. Masters or higher level degree. To qualify for one of the exempt H-1B numbers, the candidate must hold an advanced degree from a U.S. college or university. Foreign degrees and degree equivalency evaluations are not acceptable for purposes of qualifying for the exemption.

On Friday, May 4, 2007, the CIS reported that on April 30, 2007 the CIS had received enough H-1B petitions seeking a U.S. Advanced Degree Exemption to exhaust the FY 2008 Advanced Degree Exempt Cap. Petitions received on April 30, 2007 will be subject to a random numeric selection process, or "lottery". Petitions selected in the lottery will be allocated an H-1B number, which will be awarded if the petition is ultimately approved.

The standard H-1B cap for beneficiaries with only a U.S. Bachelors Degree or a foreign degree equivalency was previously reached on April 2, 2007, the first day the CIS accepted petitions requesting a Fiscal Year 2008 H-1B visa number. With the exhaustion of both the standard and Advanced Degree Exempt H-1B quotas, no FY 2008 H-1B numbers are available, except for a limited number of H-1B visas set aside for citizens of Chile and Singapore pursuant to Free Trade Agreements.

Many H-1B petitions do not require a new H-1B number and are thus unaffected by the H-1B cap. The following types of H-1B petitions are not subject to the annual H-1B cap and may be filed without numerical limitation:

1. H-1B Petition Extensions for existing H-1B employees
2. H-1B Change of Employer petitions for candidates holding H-1B status and seeking to change employers
3. H-1B Petitions on behalf of employees of institutions of higher education

4. H-1B Petitions on behalf of employees of Nonprofit Organizations affiliated with institutions of higher education
5. H-1B Petitions on behalf of employees of Nonprofit Research Organizations or Governmental Research Organizations
6. H-1B Petitions on behalf of candidates who were previously granted H-1B status in the past six years and have not left the United States for more than one year after attaining H-1B status

For more information concerning the H-1B cap and cap-exempt cases, contact your Tindall & Foster Immigration Attorney. Your Tindall & Foster attorney will be happy to assist you in determining whether a beneficiary may be exempt from the cap, in developing an appropriate case strategy for case preparation and filing, and in collecting the information and documentation needed to facilitate filing for H-1B cap-exempt cases.