

H-1B CAP ALERT DOES NOT IMPACT FILINGS FOR H-1B EXTENSIONS, PORTABLE CASES, AND U.S. ADVANCED DEGREE EXEMPT PETITIONS

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Today's H-1B cap alert impacts first-time H-1B filings for Bachelors Degreed candidates. Several types of H-1B petitions may still be filed after the general FY 2006 H-1B cap has been reached for Bachelors Degreed candidates.

A. H-1B Petition Extensions

Employers may still file H-1B petition extensions for existing H-1B employees. Because such employees were counted under the H-1B cap in a previous fiscal year, they will not be counted again when a petition extension is filed.

B. >H-1B Portable Change of Employer Petitions

Employers may still file H-1B petitions for qualifying candidates who hold or have recently held H-1B status for employment with a similarly situated company. Such individuals have already been counted under the H-1B cap in a previous fiscal year and would not be counted again when the change of employer petition is filed.

C. H-1B Petitions for U.S. Advanced Degree Candidates

Third, H-1B numbers remain available for both Fiscal Year 2005 and Fiscal Year 2006 for candidates with an advanced degree (Masters or higher) from a U.S. university. Masters or higher degrees from foreign universities will not qualify a candidate for this exemption.

Additional exemptions may apply for candidates who will be employed with non-profit organizations, universities, and certain research institutions. For more information concerning exempt petitions and for case initiation, please contact your Tindall & Foster, P.C. immigration attorney.