



Alerts

H-1B Cap Season is Approaching Quickly!

January 4, 2023

Insights for Employers

With the H-1B cap pre-registration period quickly approaching, now is the appropriate time to review your hiring needs, identify those individuals you intend to sponsor for H-1B employment authorization, and gather necessary documentation.

Background

H-1B employment authorization is one of the most highly utilized and sought-after temporary work authorizations in the United States and allows employers to hire foreign nationals to perform employment in jobs that are considered to be "specialty" occupations. A specialty occupation is defined as an occupation requiring at least a Bachelor's degree or equivalent to perform the duties of the position in the U.S. In its current form, the H-1B employment authorization is limited to 65,000 new H-1B petition approvals per year, plus an additional 20,000 H-1B authorizations that are set aside for individuals with Master's degrees from U.S. universities. Employment start dates for H-1B authorizations occur on October 1 each year, which corresponds with the government fiscal year. Individuals currently working for U.S. employers in H-1B status are not subject to this numerical limitation when a new employer files a petition to change the sponsoring employer for their H-1B employment authorization.

The Pre-Registration Period

In January 2020, United States Citizenship and Immigration Services (USCIS) introduced an H-1B "pre-registration period" from March 1-March 20 to allow employers to register their interest in filing an H-1B petition on behalf of a specific employee. Once employers have registered for this H-1B lottery, USCIS runs a random selection process or "lottery" to determine which employers will be permitted to file H-1B petitions on behalf of their prospective H-1B employees. USCIS received over 300,000 registrations for the 85,000 spots in March of 2021 and over 480,000 registrations for the March 2022 registration period. Due to the scarcity of these H-1B authorizations, preparing well in advance for pre-registration is crucial, and it is not too soon to start the preparation process.

Attorneys

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Service Areas

Immigration



H-1B pre-registration for March 2023

The H-1B filing pre-registration period allows employers to register their individual H-1B submissions online with one select foreign national applicant. Multiple filings by the same employer for one foreign national will disqualify the submission. It is important to note that more than one employer may file an H-1B registration for one foreign national.

Exemptions from the H-1B Cap

Certain employers are exempt from the H-1B numerical limitations and therefore do not need to go through the pre-registration process. These employers include the following:

- governmental research organizations,
- non-profit research organizations, institutes of higher education, and
- non-profit organizations affiliated with institutions of higher education

Please feel free to contact our offices for assistance in assessing your need and managing the H-1B registration process.