



IMMIGRATION ALERT

USCIS Announces that H-1B U.S. Master's Degree Exemption Cap has been Reached

U.S. Citizenship and Immigration Services (USCIS) announced this week that it has received enough H-1B petitions to meet the "Exemption" cap of 20,000 visas for Fiscal Year 2006. This exemption is for individuals who hold U.S. Master's degrees or higher degrees.



USCIS made the following announcements related to the H-1B "Exemption" cap:

- USCIS will process all H-1B petitions filed for the 20,000 cap-exempt visas received by the end of business on January 17, 2006.
- USCIS will return H-1B petitions, with filing fees, for the 20,000 cap-exempt visas received after January 17.
- Petitions for new H-1B employment, which can have an effective date no earlier than October 1, 2006, will not be accepted until April 1, 2006.

Background

There is an annual limit on the number of H-1B petitions that can be approved during the government's 2006 fiscal year (beginning October 1, 2005 and ending September 30, 2006). The H-1B cap for fiscal year 2006 is 65,000, and this cap was reached on August 11, 2005.

There is an additional quota of 20,000 H-1B's which are reserved for persons who hold a Master's degree or higher awarded by a United States college or university. This additional quota of 20,000 H-1B's was exhausted on January 17, 2006.

Exceptions to the H-1B Cap



With some exceptions, petitions for current H-1B workers are not subject to the annual cap. Non-cap cases include H-1B workers extending their status, changing from one H-1B employer to another, changing the terms of existing H-1B employment, or filing for a second (concurrent) H-1B position. In addition, foreign nationals seeking to work for an institution of higher education, for a related or affiliated nonprofit entity, or for a nonprofit research organization or a government research organization are not subject to the H-1B cap. For additional information on H-1B cap exemptions, visit www.immstar.com, click "Immigration Updates," and choose "Immigration News," then view "Managing the H-1B Cap."

In addition, H-1B carve-outs exist for nationals of Singapore and Chile, and Congress has enacted an E-3 visa classification for specialty workers who are nationals of Australia. Congress reserved 6,800 H-1B visas each

fiscal year for nationals of Singapore and Chile, and recently provided for 10,000 E-3 visas for Australian nationals. The requirements for E-3 classification mirror H-1B visa requirements.

Seyfarth Shaw's Business Immigration Group provides periodic information alerts about noteworthy developments in the business immigration field. The information that we provide is of a general nature and should not be interpreted as legal advice applicable to a specific factual situation. If you have questions about the information contained in this Immigration Alert or would like to know more about Seyfarth Shaw's Business Immigration Group and our inbound and outbound visa processing capabilities, please visit our website, www.immstar.com, or contact a member of the Business Immigration Group: Jim King (jking@seyfarth.com) in Atlanta; Russell Swapp (rswapp@seyfarth.com) or Dyann DelVecchio (ddelvecchio@seyfarth.com) in Boston; Ric Fischer (rfischer@seyfarth.com) in Chicago; Michael Murray (mmurray@seyfarth.com) in New York; or Howard Hobbs (hhobbs@seyfarth.com) in DC. If you would like to receive our Immigration Alerts, please contact Sarah Compton via e-mail at scompton@seyfarth.com. Thank you.



Seyfarth Shaw LLP
55 East Monroe Street
Suite 4200
Chicago, IL 60603
ATTN: Client Relations
Sey-
farth@seyfarth.com

