



IMMIGRATION ALERT



One Fourth of FY 2005 H-1B Visas Depleted

The United States Citizenship and Immigration Services (“USCIS”) limits the number of H-1B visas available annually. The H-1B limit or “cap” reverted to its current level of 65,000 for Fiscal Year (“FY”) 2004 after five years at much higher limits.

The FY 2004 cap (covering the period from October 1, 2003 to September 30, 2004) was reached in February 2004, just five months into the fiscal year. No additional H-1B visas were made available, and those wishing to attain H-1B status had to wait until April 1, 2004 to submit petitions for FY 2005 eligibility (with an October 1, 2004 start date).

Recent Developments

After the first two months of processing H-1B applications for the 2005 fiscal year, approximately one fourth of the available visas have been used. Fujie Ohata, Director of Service Center Operations for USCIS announced at the AILA (American Immigration Lawyers Association) annual conference that 16,100 approvals had been issued by the end of May that are countable against the annual cap of 65,000. Those with petition approvals will not be eligible for a visa until the beginning of fiscal year 2005 on October 1, 2004.

Exceptions

Certain foreign nationals holding H-1B status counted against the cap in a prior year and employees of certain institutions of higher education and non-profit and government research organizations are not subject to the cap. Non-immigrants in these classifications are exempt from the cap and will continue to be eligible for visas in the event that the FY 2005 cap is reached. For additional information about cap exemptions, visit www.immstar.com, click “Immigration Updates,” and choose “Immigration News,” then view “Managing the H-1B Cap.”





Conclusion

Keeping in mind the possibility that the cap could once again be reached, it is important to file petitions for the H-1B visa as early as possible. The immigration experts at Seyfarth Shaw have a wealth of knowledge in this area and experience in gaining positive results for our clients. We look forward to meeting your needs and exceeding your expectations.

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 one of the Business Immigration Group Partners: 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; or Cris Weals (cweals@dc.seyfarth.com) in DC. If you would like to receive our Immigration Alerts, please contact Nici Kersey via e-mail at nkersey@seyfarth.com. Thank you.



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