

Cap-Subject H-1B Visa Petitions to be filed on April 2, 2018

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The annual H-1B cap season will be opening April 2, 2018. As usual, the application window period is 5 business days. 65,000 H-1B visas are allotted every year. An additional 20,000 visas are set aside for individuals with a U.S. Master's or higher degree. In general, first time H-1B visa applicants, such as foreign students in F-1 visa status, are subject to the cap, unless the employer is a cap-exempt organization. To apply, one must have a U.S. job offer in a professional-level position that requires at least a bachelor's degree in a relevant field, and the individual must also have such educational credentials. The cap will almost certainly be met this year within the 5 day window period (April 2 to April 6, 2018). If an employer misses this window, no new H-1B visas will be available until the following year. The petitions that are timely filed are then subject to a government-conducted lottery. Last year, for 85,000 H-1B visas, around 200,000 applied.

Interested employers should initiate the application process as soon as possible to allow sufficient time for petition preparation by the end of March, 2018. H-1B preparation could take 4-6 weeks, which includes getting the Department of Labor's certification needed for H-1B filing. In addition, President Trump's "Buy American, Hire American" executive order recently heightened the level of scrutiny on H-1B petitions, leading to a significant increase in the number of pushbacks (Requests for Further Evidence). H-1B petitions now need to be prepared with these added issues in mind.

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