



## H-1B Visas are Available!

### **The U.S.'s "Greatest" Utility Business Visa, Typically the Subject of Scarcity, Is Available**

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For employers interested in hiring a foreign worker for a "specialty occupation" (typically, a job that requires at least a Bachelor's degree or its functional equivalent), an H-1B Employment Visa is an option with a number of very attractive features: (i) *duration* – H-1B's are issued for an initial term of 3 years, with the option of a 3 year extension; (ii) *dual intent* – the visa holder can have a temporary intent or a permanent intent to reside in the U.S., which allows the visa holder to pursue permanent residency, if desired, without leaving the U.S. and without violating his or her temporary visa status; (iii) *change of status* – an H-1B can often be obtained in the U.S. without traveling to a foreign consulate to acquire the new visa and seeking re-entry to the U.S.; and (iv) *portability* – in the event of a change in employment, an H-1B can be transferred to a different employer.

In recent years, a major hurdle has affected the H-1B's effectiveness – the need to win the "lottery" to obtain a visa. As with many U.S. Visas, H-1B's availability is limited by a quota system, subject to certain exceptions. Currently, only 65,000 "regular" or "cap subject" H-1B Visas are available annually. Until 2009, recent filing years had experienced more than 120,000 applications for H-1B Visas filed on the first day of filing availability (April 1 each year). All applications filed on April 1 were placed in a random lottery that resulted in approximately a 50% chance of obtaining an H-1B Visa if an applicant filed on April 1, with losers and later filers out of luck.

Recently, however, applications have slowed, and the cap has not been as quickly reached as in the past. Last year the cap was not reached until December 21, 2009. Currently, as of the last cap count dated July 16, 2010, **39,700 visas remain available. However, availability can change quickly, so you may wish to grab this useful tool before it's too late.**

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#### **PRACTICE AREAS**

Business Law

Immigration Law