

ALERTS

Immigration Update

H-1B VISA CAP

Immigration Practice Team

As of April 1, 2007, the United States Citizenship and Immigration Service ("CIS") will begin accepting H-1B Cap Subject Petitions for the new fiscal year beginning October 1, 2007. Unlike other visa types, H-1B Professional Worker visas are subject to a limitation – or "cap" – on the number of petitions that the CIS will grant each federal fiscal year.

The annual allotment of H-1B visas is 65,000 for foreign nationals holding Bachelor's degrees or advanced degrees conferred by foreign universities. There is a separate allotment of 20,000 H-1Bs for foreign nationals holding advanced degrees from U.S. universities.

Although not all H-1B filings count against the cap, petitions for new H-1B cases (such as new hires of foreign nationals not already in H-1B status) or changes of status (such as from F-1 Student status to H-1B) are subject to the cap. Extensions of current H-1B status or changes of employer for foreign nationals who are already in H-1B status are not subject to the cap.

Moore & Van Allen strongly recommends that employers currently planning to hire new workers under H-1B classification, or who are making hiring determinations for the coming fiscal year, contact our office immediately to take steps to ensure that affected foreign nationals are not negatively impacted by the cap.