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United States – Deadline Coming Up for H-1B Visa Petitions for 2015

by KPMG Law LLP – Tax + Immigration, Canada (KPMG Law LLP in Canada is a KPMG International member firm)

Employers that engage foreign workers coming into the United States on H-1B visas are reminded of the rapidly approaching April 1, 2014 "deadline" for the filing of H-1B visa petitions for Fiscal Year 2015. Petitions for the new fiscal year, which starts on October 1, 2014, will be accepted by the government beginning April 1, 2014. U.S. Citizenship and Immigration Services (USCIS) will continue to accept new H-1B petitions after April 1, 2014, but only until the H-1B cap is reached.

Why This Matters

Employers are encouraged to identify any employees who may require H-1B sponsorship, as the cap can be expected to be reached within the first few days after April 1, 2014. Once the H-1B cap has been reached, employers will be unable to file new cap-subject H-1B petitions until April 1, 2015.¹

The numerical cap for H-1B visas continues to limit the number to 65,000, with an additional 20,000 visas available for individuals who have earned a Master's degree or higher from an accredited U.S. educational institution.

Individuals currently employed as F-1 students or J-1 trainees, individuals seeking to change to H-1B from another work status (such as L-1, TN, or E-3), and individuals outside of the United States commonly require new, cap-subject H-1Bs.

If the number of petitions received during the first week of April 2014 exceeds the annual quota, a lottery will be conducted. The first lottery will be limited to those applicants who hold an advanced degree from a U.S. academic institution. If an advanced degree petition is not selected in the advanced degree lottery, it will be included in the lottery for the regular quota.

KPMG Law LLP (Canada) Note

It is important to prepare H-1B petitions as early as possible and well before April 1st so that a complete petition can be submitted to USCIS on the first day that the quota opens.

Employers should finalize their H-1B petition decisions by February 28, 2014. Each petition requires certification by the Department of Labor (DOL) of a Labor Condition Application (LCA). DOL regulations allow for up to seven working days to certify an LCA.² To help ensure an LCA can be obtained for an H-1B filing it is important to commence work on new H-1B petitions as soon as possible.

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Footnotes:

- 1 U.S. Citizenship and Immigration Services (www.uscis.gov).
- 2 20 C.F.R. Section 655.740(a)(1).

KPMG LLP (U.S.) does not provide any immigration services. For assistance with immigration-related matters pertaining to the U.S., please contact your local qualified immigration counsel, or:

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