



h-1b visas: employers be aware of potential changes

MSK Client Alert

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Changes are in the works related to the processing of H-1B visa petitions, and employers intending to file such petitions should be aware. On Monday, December 3, 2018, the U.S. Citizenship and Immigration Services (USCIS) announced a proposal to change the annual cap-subject H-1B visa petition filing system in two significant ways: (1) the establishment of an online H-1B registration system; and (2) a major change in the procedures related to the annual H-1B visa cap lottery.

By law, the number of new H-1B visa petitions for professional worker beneficiaries is capped at 65,000 annually, with an additional 20,000 set aside for individuals with advanced degrees from U.S. universities. Advanced degrees are considered to be master's degrees or higher. Certain employers, such as hospitals, non-profit research institutions and universities are exempt from this annual cap. As a result of this limitation on H-1B filings, the USCIS receives well in excess of the allowable number of petitions at the beginning of each year's filing season, April 1. Accordingly, a random lottery has taken place in early April of each year. Employers are notified over the next few months if their petitions are among the lucky 85,000 selected. The numbers are daunting – approximately 198,000 petitions were received in fiscal year 2017, and approximately 236,000 in fiscal year 2016.

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