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December 2023 H-1B CAP ALERT

It's beginning to look a lot like.... H-1B season! It is time to start identifying employees that should be placed into the H-1B cap in March 2024.

ANTICIPATING THE H-1B CAP SEASON

For most business immigration law firms, January through March is the time for H-1B cap registration. This year, we are asking you to start a little earlier, and identify now any individuals or employees that might need to be placed into the H-1B cap.

Identifying individuals for the H-1B cap registration: If employers have employees or potential hires that need to be placed into the H-1B lottery in March, please let us know as soon as possible. Employees for whom you should consider include those who hold the following status:

- F-1 OPT or STEM OPT
- L-1 (if Indian or Chinese national)
- TN (Canada or Mexico)
- H-1B1 (Chile or Singapore)
- H-4 working on EAD

Anyone else can be considered who wishes to have a more secure visa status that can be extended beyond the H-1B maximum of 6 years if a timely green card application is started and filed.

Timing of H-1B cap: H-1B cap registrations are usually submitted at the end of March and the selection is done on or shortly before April 1st. Once selected in the H-1B lottery, petitioners have 90 days to submit the H-1B petition. For this reason, T&R strongly recommends doing an H-1B assessment now, prior to the registration in March, so that any issues are addressed in advance if the case is selected in the

lottery.

H-1B modernization rule: The U.S. Department of Homeland Security (DHS), through the USCIS, published a proposed rule on October 23, 2023, to improve the H-1B program including the H-1B cap registration process. The rule is going through comment period and review and expects to be finalized before this year's H-1B cap registration. If so, we will likely see a beneficiary focused lottery to avoid multiple registrations on behalf of the same beneficiary. We will provide updates as they become available.

Contact us early! Please contact T&R as soon as possible if you wish to place an employee or potential hire into the H-1B cap. H-1B cap season is like the “tax season” for accountants and the earlier you provide information the better.



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