



FROM THE EDITOR'S DESK

The biggest news for the month of April, the news which is topping the charts is about the H-1B visa. The H-1B cap for FY2010 has not yet been reached, so there is still time to file.

As of April 9, 2009, neither the regular cap number of 65,000, nor the advanced degree "exemption" of 20,000, has been reached. This is the first time in several years that the USCIS has not had to resort to a lottery for H-1Bs based on the initial filing period.

While the USCIS was close to reaching the 20,000 number for the advance degree petitions they are still accepting petitions for that category. Moreover, if you file under the advance degree exemption, and your petition does not reach USCIS before the category is closed, your petition will automatically be rolled into the regular H-1B quota.

Last year, the USCIS received more than the 65,000 cap in the first week of April. But this year, as many economists predicted, there is not going to be the same number of H-1Bs. **As of April 9, 2009, USCIS had only received 42,000 petitions toward the cap.** Those petitions received before the cap is reached will be processed upon receipt, and those received on the cap is reached will be submitted to a mini-lottery.

As per CBO's estimation, in the short run ARRA will raise the GDP and increase employment by adding to the aggregate demand, thereby boosting the utilization of labor and capital that would otherwise remain unused because the economy is in recession.

It's Not Too Late To File For An H-1B Visa For FY2010

In past years, both H-1B regular and US Master's caps were met within the first days of filing; whereas, this year, USCIS is still accepting petitions beyond the initial five (5) business day filing period. Thus, this presents a unique opportunity for employers who opted not to file H-1B petitions for their key employees because of the potential for wasted efforts and resources should the petitions not be selected in the anticipated lottery.

This is not to say that no such risk exists; however it appears there is plenty of availability under the regular cap, as well as a window of opportunity under the U.S. master's cap if you act promptly. But you may have to hurry up as one cannot be sure how long the H-1B visas will be available. USCIS will stop accepting the H-1B petitions as soon as it receives adequate number of petitions required to meet the H-1B cap for FY2010. [Contact VisaPro](#) immediately to assist you with the H-1B filing using the fast, easy and economical online visa processing.

VisaPro has started receiving H-1B approvals for cases filed on April 1, 2009 for FY2010.

Update from USCIS About H-1B Filing

- As of April 9, 2009, USCIS had received 42,000, and an additional 20,000 toward the advance degree cases.
- If H-1B Quota is not reached until April 7, 2009, or later, then USCIS will continue to receive and accept petitions until the day upon which USCIS

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YOUR OPINION

Do you think the USCIS will receive enough petitions to meet the H-1B cap for FY2010?

- a. Yes
- b. No
- c. Can't say

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IMMIGRATION QUIZ

Win a FREE Online Consultation!

Submit your answer to the query below. The best response will be published in the next **Immigration Monitor** and the winner will receive a **FREE Online Consultation** from an Experienced VisaPro Immigration Attorney during the month of May 2009.

What are eligibility requirements for E-3 visa? Is an E-3 with personal trainer/nutritionist as my specialty occupation the best way to go to US?

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accept petitions until the day upon which USCIS concludes that a sufficient number of petitions is reached.

- Mini Lottery will be conducted for those cases received on the last day ([Learn more](#) about 'Mini Lottery')

Increasing H-1B Quota = More Tax Income to US?

As it happens every year around the H-1B filing time several arguments are being floated to increase the number of H-1Bs available.

Last year (2008) Bill Gates, founder of Microsoft, submitted a request to several US Senators to increase the limit for H-1B Visas, pointing out that more than 160,000 applications were submitted for 65,000 General Cap and 20,000 for Advanced Degree. While the applications received are down for this year there are some proposals and bills that could be introduced in an attempt to boost the US Economy.

Green Cards to H-1B Workers

There is a thread in the Immigration Voice about granting green cards to current H-1B visa workers, but under following conditions:

1. They should buy a home with a minimum of a 20% down payment, and
2. They should have lived in US in H-1B status for at least 3 years or more.

The idea is that this will help many nonimmigrants in H-1B visa status who are hesitating to invest in the US to buy a home. It is estimated that some 50,000 or more homes can be sold through this type of program.

More Tax Revenue to US

Another argument is to increase the number of H-1B visas to increase the tax revenues. In the IT industry an entry level software engineer will receive a starting salary of \$40,000 to \$60,000 per year, and each of those employees pays income taxes. So increasing number of H-1B visas will increase tax revenue. But this can be looked at from two different angles.

There is an argument that people who have lost jobs in this market are not going to like the idea of increasing the number of H-1B visas until all US workers have gone back to work. When you have a family and have lost your job, only then do you realize how difficult it is to survive. For someone living paycheck to paycheck life is going to be very hard. Both sides of this argument are valid.

This is as far as we can take this argument this month. Readers can decide and pen down the thoughts.

Other Developments in Immigration Law

USCIS Issues New I-9 Form

The USCIS recently issued a reminder that effective April 3, 2009; all U.S. employers are required to use the revised Form I-9, Employment Eligibility Verification. This form has a revision date of (Rev. 02/02/09), which is found in the lower right-hand corner of the form. The interim final rule on I-9s, published in the Federal Register on Dec.17, 2008, made significant revisions to the list of documents acceptable for the Employment Eligibility Verification (Form I-9) process. Previous versions of Form I-9 may no longer be used.

Cap Gap Rules for F-1 to H-1B in Effect for FY2010 Filings

On April 1, 2009, USCIS issued a Q&A for Extension of Post Completion Practical Training and F-1 Status for Eligible Students under the Cap Gap Regulations. The Q&A points out that, current regulations allow certain

Question?

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Winner of the Immigration Quiz - March 2009:

Karin

The Question:

Right now I am on L-1 Visa. My Visa and I-94 validity are valid till 30-Oct-2009. L-1 Petition Validity is till 5-Aug, 2009. Now I would like to apply for H-1B visa as my Wife is on H-1B valid till 2010. Can I go for H-1B Visa? Do I need to quit the current Employer? What happens to my current L1 visa? Can I start working on H-1B Visa from October, 2009 onwards without leaving US and not getting my H-1B Visa stamped?

The Winning Response:

If you have a qualifying job with an employer willing to file the H-1B petition for you there is no problem in your changing status to H-1B. You do not need to leave the US to get an H-1B stamp before beginning work. Once the USCIS grants the change of status you are considered to be in that new status and able to begin working. Additionally, you can continue to work for your current employer until the H-1B is granted, or you can quit once the change of status petition has been filed. If you quit before the change of status is granted you cannot start working until you receive the approval. Once you change to H-1B status the L-1 visa is no longer valid.

Karin receives a FREE Online Consultation from an Experienced VisaPro Immigration Attorney during the month of April 2009.

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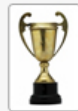
students with pending or approved H-1B petitions to remain in F-1 status during the period of time where an F-1 student's status and work authorization would otherwise expire, and up to the start of their approved H-1B employment period. This is referred to as filling the "cap gap", meaning the regulations provide a way of filling the "gap" between F-1 and H-1B status that might otherwise occur if F-1 status was not extended for qualifying students.

To qualify H-1B petitions must be timely filed on behalf of an eligible F-1 student. "Timely filed" means that the H-1B petition (indicating change of status rather than consular processing) was filed during the H-1B acceptance period, while the student's authorized duration of status (D/S) admission was still in effect (including any period of time during the academic course of study, any authorized periods of post-completion OPT, and the 60-day departure preparation period, commonly known as the "grace period.")

Immigration Articles and Other Fun Stuff

Now for the regulars – this month's **Immigration Article** entitled 'Crime and Criminal Activities – How Can They Affect Your Status in the US?' is a must read to know how adversely can a crime or criminal activity can affect your status in the US. This article discusses some of the potential immigration consequences of criminal activity by a foreign national and also lists some measures you can take to protect your status and your long term plans to settle in the US. Also check out our **In Focus** section for this month, which provides you a basic introduction to the grounds of inadmissibility and deportability.

Every month we introduce a new and interesting question for our opinion poll. Last month's poll results indicate that **75%** of the respondents believe that it is beneficial to design a program to give illegal immigrants living in the United States the right to live legally if they pay a fine and meet other requirements. We appreciate that people take interest in the opinion question and cast their vote to give us their feedback. Keep it up! And continue to cast your vote to express **Your Opinion**.



We congratulate **Karin** for winning last month's **Immigration Quiz**. Again, we received a significant number of responses from our readers, who talked about various solutions to support their position, but **Karin** gave the correct answer and won a free online consultation to discuss the concerned Immigration issues. So it's time to get ready for this month's quiz. If you know the correct answer your name might be featured in next month's newsletter. All the Best!!!

To ensure you receive your Immigration Newsletter, please add Immigration-Monitor@VisaPro.com to your address book or safe list.

See you next month with a lot more noise from the Immigration World!

Christine

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[H-1B Cap for FY2010 Has Not Been Reached Yet](#)

USCIS did not receive enough H-1B petitions required to meet the H-1B cap for FY2010. Thus, USCIS continues to accept the H-1B petitions to meet the H-1B cap of 65,000.

[USCIS Continues to Accept H-1B Petitions: Apply Today!](#)

USCIS, April 8, 2009, announced that it continues to accept H-1B nonimmigrant visa petitions subject to the fiscal year 2010 (FY 2010) cap. USCIS so far have not revived sufficient H-1B petitions to meet the H-1B cap for FY2010. The USCIS will continue to monitor the number of H-1B petitions received for both the 65,000 regular cap and the 20,000 U.S. master's degree or higher educational exemption cap.

[H-1Bs Reflect the Economic Conditions](#)

USCIS informed that, during the initial filing window for H-1Bs for fiscal year 2010, it has not received even half the number of petitions to reach the 65,000 cap.

[Read More News](#)

IN FOCUS

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Do You Know that Deportability and Inadmissibility Can Obstruct Your Path to US Citizenship?

The purpose of this article is to provide a basic introduction to the grounds of inadmissibility and deportability. A foreign national who has been convicted of a crime (anywhere in the world) may be deportable, inadmissible, or both. Non-citizens in the United States, including lawful permanent residents (green card holders) are subject to the grounds of inadmissibility and deportability. This means that they may be denied admission into the United States or denied a visa or permanent residence based on the grounds of inadmissibility or deported from the U.S. based on the grounds of deportability. The grounds of inadmissibility are generally broader than the grounds of deportation. Therefore, you ought to be aware of the causes that may render you either inadmissible or deportable no matter if you did anything knowingly or unknowingly.

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IMMIGRATION ARTICLE

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Crime and Criminal Activities – How Can They Affect Your Status in the US?

This article discusses some of the potential immigration consequences of criminal activity by a foreign national and also lists some measures you can take to protect your status and your long term plans to settle in the US. Criminal activities can adversely affect your immigration status in the US. In general, the immigration consequences of criminal activity are very severe. Commission of a single offense may make a foreign national inadmissible and/or deportable on multiple grounds.

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[H1B Stamping - Wife & Husband have H1B petition from same employer](#)
By Coolb

[Multiple I-94 : Port of Exit](#)
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QUESTIONS AND ANSWERS

1. **I have an English fiancé who is considering moving to America. He is filing bankruptcy in England. Does this affect our ability to get him a green card for him to immigrate to America? If so, what are our other options? I would think that marriage would "override" other scenarios, but I'd like to clear this up for him.**

Your fiancée filing for bankruptcy in the UK will not affect his ability to get a green card through you for the US. The USCIS will be looking only at whether you as the US citizen sponsor have the ability to meet 125% of the poverty level for the affidavit of support -- they do not look at the foreign national's income. As long as your income (and assets if necessary) meets the poverty guidelines this will not be an issue. In fact, unless it is a crime in the UK (there are some countries where bankruptcy is considered a crime) it does not even have to be disclosed to the USCIS.

GOT A QUESTION?

If you have a short, simple query on immigration to the U.S., send your questions to us. We will select and answer a few of the queries in every issue.

Note: Responses posted in this section provide only general information. Since immigration law is a complex matter, please [consult](#) an immigration attorney before acting upon any responses provided.

[Ask Your Question](#)

2. **I would like to know if there is any possibilities for me and my family to come to the united states. My mother is a US citizen and she applied for the Immigrant Petition for Relative back in November of 2004, we still have not heard anything from them. I would like to know if there is any chance for us to be reunited with my mother. My mother and my two brothers both live in the United States.**

The petition that your mother filed on your behalf is still in the process. Because you are married you are in the family-based 4th preference category (FB4). This unfortunately has the longest waiting period of all the family-based categories. The State Department, who controls the visa issuance, is currently issuing immigrant visas in the FB4 category for petitions that were filed on or before November 1, 1996. This means that, without a change in the law, a visa number will not be available for you for another 8 years.

Depending on your education and work experience you may be able to come to the US quicker using the employment-based category. This would require that you have an employer in the US that would be willing to sponsor you for a job, and is able to show that there are no US workers ready, willing, and able to fill the position (depending on the position it is not as difficult as it sounds).

[More Q&A](#)

SUCCESS STORIES

"I got my H-3 visa and I'm back in New York.

I want to thank you for being very professional thru' out this long process.

I will definitely recommend visapro to others in the future."

All the best!

Emil Nilsson
Denmark

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