



FROM THE EDITOR'S DESK

Welcome to VisaPro's April newsletter, focusing this month on [H-1B](#) visas. For decades, the United States of America has been recognized throughout the world as the "Haven of Opportunities" and the H-1B visa is widely regarded as the ticket to the haven as it is a dream of many to get to U.S. and settle. Every year, thousands of foreigners struggle to reach the shores in order to establish a better life for themselves and their families. This dream can become a reality if you apply for jobs in companies in the U.S. If you are lucky enough to get hired, and you meet the visa requirements, you get a chance to work and settle in the haven. Moreover, the H-1B visa is a dual intent visa – you don't have to show your intent to return to your home country when applying for an H-1B visa.

We all know that the US Citizenship and Immigration Service (USCIS) began accepting H-1B petitions for fiscal year 2011 (October 1, 2010 – September 30, 2011) on the first day of April, 2010. For many years before FY 2010 the H-1B quota reached almost as soon as the visas were made available. But as of April 15, 2010, USCIS announced that it has only received only 13,600 H-1B petitions counting toward the 65,000 cap, and approximately 5,800 petitions for individuals with advanced degrees. Given these numbers USCIS will continue to accept new H-1B petitions. USCIS will monitor the number of petitions received for both the 65,000 general cap and the 20,000 U.S. master's degree or higher educational exemption and will notify the public when they have received sufficient petitions to meet the cap.

Because of the downturn in the economy last year was different with the cap not being reached until the end of year. It appears that this year will follow the pattern of last year; however nobody really can identify how long H-1B visas will be available.

There is very good news for the citizens of Greece as they

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can now use the Visa Waiver Program (VWP) to make short business or tourism trips to the United States. Greece was welcomed into the VWP on March 9, 2010, and visa waivers became available for use beginning April 5, 2010. The Visa Waiver Program allows eligible foreign nationals from member countries to enter the United States for business or tourism for up to 90 days without first having to obtain a [B-1/B-2](#) visitor visa from a U.S. consulate. To be eligible to use the VWP, Greek citizens must hold an "e-Passport" containing an integrated computer chip that stores the traveler's biographic data, digital photograph and other information. Like all VWP travelers, Greek citizens must also obtain an approval to travel from the Electronic System for Travel Authorization (ESTA) before departing for the United States. Visa Waiver Program participation will make U.S. business travel easier for eligible Greek citizens and their employers. Travelers who meet program requirements will have more flexibility to make short business trips to the United States, since they will not have to go through the lengthy visa application proceedings.

On April 15, 2010 USCIS announced that it has launched a "new, comprehensive effort to review all Agency policies with the engaged participation of both its workforce and the public." USCIS has already sent a survey to its workforce and is now inviting outside stakeholders to identify their highest priorities for the Policy Review. The public survey is available on www.uscis.gov through April 29. If you have comments or concerns for USCIS take the time to complete the survey. USCIS will publish a summary of the results later this spring.

Immigration reform continues to be in the news. There is now talk in the Senate that immigration reform could move ahead of President Obama's cap and trade/energy/climate change legislation. Unfortunately we still don't know what the reform bill will contain, however it will most likely have some sort of amnesty provision. One thing is for sure – whatever the bill looks like, it will not pass without a nasty fight.

Other Developments in Immigration Law

[USCIS Grants Parole-In-Place Status to Certain Foreign Nationals in the Commonwealth of the Northern Mariana Islands \(CNMI\)](#)

USCIS announced today that it will grant parole-in-place status to certain foreign nationals in the Commonwealth of the Northern Mariana Islands (CNMI). Foreign nationals without umbrella permits whose work permits expire before new visa categories are available to them under federal immigration laws may be eligible for this interim status.

YOUR OPINION

Should [H-4](#) visa holders be allowed to work?

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

[Cast Your Vote](#)

[View Results](#)

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 April 2010.

I am waiting for my Green Card application to be approved, but my question is about traveling both to Canada and to Europe. Am I able to travel to Canada and Europe to visit my family while my Green Card application is pending? If so, what do I need to prepare in terms of paperwork to travel overseas and then return safely to the U.S. in 2-3 months?

[Submit Your Answer](#)

DOL Certifies Approximately 4,000 Workers in 10 States as Eligible to Apply for Trade Adjustment Assistance (TAA)

The U.S. Department of Labor announced that approximately 4,000 workers from companies in 10 states — California, Michigan, Minnesota, New Mexico, Ohio, Pennsylvania, Tennessee, Texas, Washington and Wisconsin — are eligible to apply for Trade Adjustment Assistance. Workers covered by these latest TAA certifications will be contacted by their respective states with instructions on how to apply for individual benefits and services.

U.S., Netherlands Announce 1-Stop Enrollment Pilot for Expedited Trusted Traveler Program

U.S. Customs and Border Protection announced that travelers interested in applying to the Global Entry and Primum Trusted Traveler programs may do so at one of five “one-stop-shop” joint enrollment centers established as a pilot initiative in the United States and the Netherlands through the Fast Low-Risk Universal Crossing (FLUX) program.

Immigration Articles and Other Fun Stuff

Now for the regulars – this month's **Immigration Article** entitled The H-1B Cap - Who Is Not Subject To It talks about the H-1B cap exempt employers and employees. The article also assists both the employers and the employees from becoming the victim of the H-1B cap restriction. Also check out our **In Focus** section for this month, which explains what constitutes H-1B dependent employer and provides information concerning H-1B dependent employers under the H-1B visa program.

Every month we introduce a new and interesting question for our opinion poll. Last month's poll results indicate that **50%** of the respondents believe that change in the processing procedures for [K-3](#) visa cases will cause K-3 visa to be administered closely. 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 **Thomas Simpson** 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 **Thomas Simpson** gave the correct answer and won a free online consultation to

Immigration
Question?

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Winner of the Immigration Quiz - March 2009:

Thomas Simpson

The Question:

I'm here in the U.S. since 2001. My wife is a U.S. citizen. We married in August 2004 and I got two year green card and then extended to one year or two. In August 2008 my petition to remove the conditions on the residence was DENIED by the USCIS.

I was very disappointed and forgot the case since then. I have also some problems with my wife and in Dec 2008 I moved to other address.

Now is it possible that for me to get green card? As a Truck Driver can I apply for the Green Card based on my employment?

The Winning Response:

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

RECENT IMMIGRATION EVENTS



VisaPro Attorney
Mr. Thomas Joy
at Bangalore



Consular Interview
Mock Session



Seminar Attendees
at Hyderabad

More ▶

LATEST NEWS XML

[Secretary Napolitano and USCIS Director Mayorkas Lead Naturalization Ceremony at Boston's Historic Faneuil Hall](#)

Department of Homeland Security (DHS) Secretary Janet Napolitano and U.S. Citizenship and Immigration Services (USCIS) Director Alejandro Mayorkas today welcomed more than 400 new U.S. citizens representing 78 countries of origin at a naturalization ceremony at Boston's historic Faneuil Hall.

[H-1B Count as of April 15, 2010](#)

USCIS has informed that it has received approximately 13,600 H-1B petitions counting toward the 65,000 cap and approximately 5,800 petitions for individuals with advanced degrees. USCIS thus announced that it continues to accept H-1B visa petitions subject to the Fiscal Year 2011 (FY 2011) cap. USCIS will monitor the number of petitions received for both the 65,000 general cap and the 20,000 U.S. master's degree or higher educational exemption.

It would be extremely difficult to get a green card based on your job as a truck driver. Truck drivers are considered by the Department of Labor to be Schedule B positions, meaning it is presumed that there are sufficient U.S. workers to fill any opening. Under these circumstances it is likely that a labor certification would fail.

If you are now legally separated or divorced from your wife you may be able to file a new I-751 under one of the alternate provisions of the law.

Thomas Simpson receives a **FREE Online Consultation** from an Experienced VisaPro Immigration Attorney during the month of April 2010.

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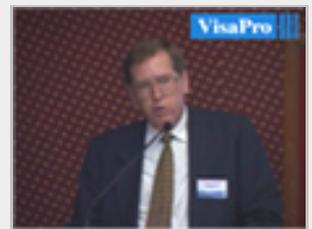
Location: Work from anywhere in the U.S. No need to relocate.

- ▶ [Immigration Attorney](#)
- ▶ [Immigration Paralegal](#)

NEW TO VisaPro?

Have you been waiting for long to know the status of your visa application? But now no more! [Click here](#) to check the status of your visa petition online for FREE! This facility is suitable for the applicants with WAC, LIN, EAC, SRC and MSC receipt numbers, as well as for the U. S. work permit holders, Green Card applicants, H-1B visa, fiancée, L-1 and other visa petitions.

Wanted to take part in our immigration events, but missed your chance? Check out the informative library of immigration law videos from past conferences.



[More Videos...](#)

[USCIS Reminds Haitians to Register for Temporary Protected Status](#)

U.S. Citizenship and Immigration Services (USCIS) reminds Haitian nationals that the registration deadline for Temporary Protected Status (TPS) is fast approaching. Haitian nationals are advised to review their application packages carefully when applying for TPS.

[Read More News](#)

H-1B Dependent Employers – Who are they?

In December 2000 USCIS, through the rule-making process, created the “H-1B Dependent Employer.” The H-1B dependent employers are required to advertise any position they wish to fill with an H-1B employee before petitioning for their foreign workers. H-1B dependent employers are subject to further displacement and staffing substantiation requirements and obligations under the new rule. Hence, employers must determine if they are H-1B dependent whenever they file an LCA (Labor Condition Application). This article explains what constitutes H-1B dependent employer and provides information concerning H-1B dependent employers under the H-1B visa program.

[Read Full Article](#) | [Read More Articles](#)

IMMIGRATION ARTICLE

The H-1B Cap - Who Is Not Subject To It?

We all are well aware of the H-1B cap restriction but most of us aren't aware of the fact that not every H-1B petition is subject to the cap. The H-1B cap is the biggest concern both for prospective employers and proficient employees. While the H-1B cap is currently set by statute at 65,000, there are several exemptions that raise the actual number of new H-1Bs each year. It is highly important that you carefully analyze which H-1B cap exempt category you or your employer call into. This article has been designed to assist the employers and the employees from becoming the victim of the H-1B cap restriction. Go ahead...read the article and enjoy your H-1B filing without falling prey to the H-1B Cap.

[Read Full Article](#) | [Read More Articles](#)

PROCESSING TIMES

▶ [Visa Bulletin](#)

▶ [USCIS Processing Times](#)

▶ [Local USCIS Offices](#)

DISCUSSION CORNER

[Will my green card affected if company filing bankruptcy?](#)

By Maahi

[Australian to US on a L1 & Brining family](#)

By Sillybilly

[EB2/EB3 Italian Skilled worker processing times](#)

By MattyPondy

[More Discussions](#)



2010 H-1B Cap Strategies
How to beat the Cap?

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QUESTIONS AND ANSWERS

Q1. I have a client who came to the U.S. on a K-1 Visa on July of 2003, now his Visa is expired and his wife refuses to file a petition to adjust his status. What are his options?

Ans. You have limited options. If he entered on the [K-1](#) he must file the adjustment of status based on marriage to that petitioner. If his wife is refusing to file the adjustment for him his only option would be to file under the VAWA provisions if he can show physical, mental or emotional abuse.

Since he entered on a K-1 even if he were to divorce and marry another U.S. citizen he would have to leave the U.S. to process his immigrant visa. Because he has been out of status for longer than 1 year he would be subject to the 10 year bar and would also have to get a waiver to be able to return.

Q2. I am an Ex Great Britain swimmer, have swum for 18 years at the national and international levels. I also swam for American universities for four years, winning international recognition. I have been offered a job in Indiana as an assistant coach. I am currently living in the UK, and have taught swimming for the past year. I am interested in finding out what visa is most appropriate for my situation? I have looked at the O-1 visa – would I qualify for this with my swimming experience because it's in a related field? If not, is the H-1B visa for specialized occupations relevant?

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](#)

Ans. There are at least three visas that would be an option in your case – [H-1B](#), [O-1](#) and [H-2B](#).

An H-1B visa requires three things: 1) there is a U.S. employer offering a valid job; 2) the job must require at least a bachelor's degree or it's equivalent as a minimum for entry into the position; and 3) the sponsoring U.S. employer must pay the prevailing wages for the position.

An O-1 visa is for persons of extraordinary ability. It is for that small percentage of people who have risen to their very top of the field of expertise. To qualify you need to show that you have received sustained national or international recognition. The type of evidence that you need to provide can be proof that you have received an award of international significance such as a Noble prize, Emmy award, Academy or Grammy award or you have to meet three of ten different criteria listed in the regulations. Your evidence has to show that the quality of your expertise is extraordinary, and that you have risen at the very top of the field of your expertise over a sustained period of time. In your situation you have been offered the position of the assistant coach in swimming which is related to your area of expertise. If you can show you have received sustained international or national recognition, an O-1 visa may be an option for you.

Another option for you would be an H-2B visa which is for temporary workers, workers who are coming to U.S. to work in a position that is temporary in nature, usually lasting less than one year. H-2B visas are issued for one time occurrence, or when there is peak load or seasonal need. Your potential employer would have to advertise with a local newspaper to prove that they are unable to find a qualified American worker. The employer would also need to prove that the position offered is temporary. H-2B visas are usually issued for one year or less. If your potential employer can make the argument that the need for a swimming coach is seasonal and that they cannot find an American worker to fill the post you could qualify for the H-2B.

In any of the three visas listed above you can travel freely in and out of the U.S.

[More Q&A](#)

SUCCESS STORIES

"The professional in VisaPro helped me for my [TN Canada](#) extension successfully

VisaPro checked my documents and helped me making them complete. All the documents were sent through email [online system]. It was easy and fast. VisaPro prepared my case accurately and quickly forwarded them to USCIS for further approval. In the few weeks of waiting time, I could completely concentrate to my work for my employer in US. Whenever I called or emailed to [VisaPro team], I could always get the latest update. If you prefer peace of mind and on-time services, VisaPro is definitely a good choice."

Warm regards,

Chengqi Liu, Electrical Engineer
[Northwest Contract Services](#)

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