

FROM THE EDITOR'S DESK

Hello and welcome to the April 2012 Immigration Newsletter!

The FY 2013 H-1B Cap filing season has begun and it's kicked off with a big bang (at least compared to the last 2 years)! According to USCIS, the number of filings received in the first three days of the [H-1B](#) season (April 2-April 4, 2012) was almost double the number of filings received by USCIS during the same time last year. USCIS currently reports that as of April 20, 2012, it has received approximately 25,000 H-1B cap-subject petitions and 10,900 petitions for foreign nationals with advanced degrees. The progression of H-1B numbers during the first 20 days of the filing period are as follows:

Date (As on)	H-1B Regular Cap Eligible Petitions	H-1B Master's Exemption Petitions
09-April-2012	17,400	8,200
13-April-2012	20,600	9,700
20-April-2012	25,000	10,900

So far, more than half of the master's cap number has already been reached! In fact, the numbers are moving so quickly that while there are already more than 25,000 regular cap cases filed, only 22,700 were filed as of August 03, 2011 last year! These numbers would indicate that the economy is slowly on its path to recovery. More importantly for employers to keep in mind, however, is that the H-1B quota will not remain open for 7 or 10 months as it has the last few years. Based on the current progression of H-1B cap numbers, we don't expect the quota to remain open more than a few months. If you are an employer intending to employ foreign workers on H-1B, make sure to [contact VisaPro](#) at the earliest to discuss all options and not leave things to the last moment.

As expected, in the Department of State (DOS) Visa Bulletin for May 2012, the [EB-2](#) priority dates for India and China have retrogressed and moved back to 15 August 2007 from May 01, 2010. Significantly, the DOS has also confirmed that the annual limit in the EB-2 category for China-mainland born and India has been reached and has notified USCIS that no further visas for those categories will be authorized. USCIS will continue to accept adjustment applications based upon the cut-off dates

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YOUR OPINION

Do you think DOL's new H-2B Regulations 2012 are more business-friendly than the previous H-2B regulation?

- a. Yes
- b. No
- c. Not Sure

[Cast Your Vote](#)
[View Results](#)

published in the April and May Visa Bulletins but requests from USCIS Service Centers and Field Offices for visas in the EB-2 category aliens chargeable to China-mainland born or India will be retained by DOS for authorization in FY 2013, beginning on October 1, 2012.

Continuing with some more DOS news, DOS announced adjustment of visa processing fees effective April 13, 2012. Under the announcement while the fees for most nonimmigrant visa applications and Border Crossing Cards increased, the fee for E visas (for treaty-traders and treaty-investors) and K visas (for fiancé(e)s of U.S. citizens), as well as all immigrant visa processing fees decreased. [Click here](#) to view the relevant fee changes.

On the [H-2B](#) front, the new H-2B Regulations 2012 were set to take effect on April 27, 2012. Accordingly, applications postmarked on or after April 27, 2012 are supposed to be adjudicated in accordance with the requirements described in the Final Rule. DOL has informed that any application filed under the current regulation that is postmarked on or after April 27, 2012 will be returned, and the employer (and its agent or attorney) informed of the need to file a new application in accordance with the provisions of the new H-2B Final Rule. The DOL has recently posted a first round of FAQs to assist employers, workers, and other interested parties in interpreting the H-2B 2012 Final Rule.

On April 26 2012, however, before the rule could go into effect, a District Judge in Florida ordered a preliminary injunction preventing the 2012 Final Rule from being implemented for at least 60 days. Several business and associations sued DOL in the Northern District of Florida over the H-2B final rule, alleging that DOL lacks rulemaking authority, and asking the court to vacate the rule and to issue a preliminary injunction. The Plaintiffs alleged that the DOL's issuance of the Final Program Rules were in excess of their authority and must be vacated. With this challenge to the new regulations, one can safely assume that the new regulations are going to be in the news for some time in the near future.

Employers and other participants under the H-2B program should not fail to checkout our **In Focus** article of the month that showcases the major changes brought about by the new H-2B regulations 2012. Furthermore, employers should [contact VisaPro](#) at the earliest to discuss the recent developments and to see what effect, if any, the new rules and/or the injunction will have on the H2B process.

Meanwhile, we are happy to share with you that our Senior Immigration Attorney, Mr. Thomas Joy, gave a Seminar Presentation at the International HR SIG Event organized by Northern Virginia Society for Human Resource Management in McLean, VA on April 19, 2012. His presentation, "**U.S. Immigration: What Corporate HR Must Know**" was well received. We are also happy to share with you that all the participants stated that they learned something that they did not know before the Seminar. You may [click here](#) to view a few photographs of the Attorney Presentation and the Seminar. We look forward to interacting with you all in similar forums in the future. You may also [contact us](#) if you would like us to

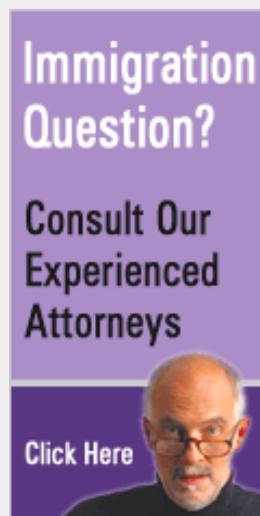
IMMIGRATION QUIZ

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 2012.

I am currently in the US on a [B-1](#) visa. I wish to enroll in a course of study. Can I do that while I am on B-1?

[Submit Your Answer](#)



Winner of the Immigration Quiz - March 2012:

Bob Gray

The Question:

I do not have a master's degree but my work experience is equivalent to the knowledge and background of a master's degree holder. Can I qualify as an "exempt" [H-1B](#) worker?

The Winning Response:

arrange a presentation to a group.

Other Developments in Immigration Law:

[H2B Cap Count Update](#)

USCIS has updated the count of H2B visa petitions received and counted towards the H2B cap for the 2nd half of fiscal year 2012 employment. As of April 20, 2012, USCIS has received filings on behalf of approximately 23,431 beneficiaries, and approved approximately, 20,915 H2B beneficiaries for the 2nd half of FY 2012.

[USCIS Releases Information on Automatic Extension of F-1 Student Status for Those with Pending H-1Bs](#)

USCIS confirmed the continuation of the F-1 "Cap-Gap" program. The program grants a cap-gap extension for F-1 students whose status would normally expire while waiting for an H-1B petition to be reviewed. Eligible F-1 students (those whose status is still valid when an [H-1B](#) petition is filed for the next fiscal year) will remain in status as long as the H-1B petition is filed before their F-1 status expires. Furthermore, if the H-1B petition is filed before the student's OPT expires, the student will continue to be authorized to work until the effective date of the H-1B petition. Eligible students can go to their Designated School Official to have a cap-gap I-20 issued showing an extension once the H-1B petition is filed and receipt notice is received. Once the H-1B is approved, the student should return to the DSO to ensure that the I-20 is endorsed for the entire period until the H-1B goes into effect. USCIS released their annual Questions and Answers on Cap-Gap on March 29, 2012.

Immigration Articles and Other Fun Stuff

Our 'Featured Video' for this month, titled '[TN Canada: NAFTA Visas for Canadian Professional Workers](#)', showcases the TN work visa, specifically for Canadian professionals, which is an excellent alternative to H1B visa for Canadian nationals. The video details the qualifications required for TN NAFTA visas, and how Canadian professionals can enter the US with greater ease under the TN classification. Please check out and subscribe to our YouTube channel to take advantage of another great service provided to you by VisaPro.

Also check out our **In Focus** article for this month titled '[The New H2B Regulations 2012: What You Need To Know](#)' which presents a snapshot of the various changes brought about by the DOL's new H2B regulations 2012.

Every month we introduce a new and interesting question for our opinion poll. Last month's poll results indicate that a majority of respondents (**66.67%**) welcome USCIS' recent decision to allow [R-1](#) Religious Workers to recapture time spent outside the U.S. 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**.

No. In order to qualify as an exempt H-1B worker, you must have been awarded a Master's degree or higher. If you do not have a Master's degree, you cannot establish equivalence to the degree through work experience. As you do not have a Master's degree, you do not qualify as an exempt H-1B worker.

Bob Gray receives a **FREE Online Consultation** from an Experienced VisaPro Immigration Attorney during the month of May 2012.

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Job Type: W-2 or 1099

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

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NEW TO VisaPro?

Do you have questions regarding the [H-1](#), [L-1](#), [E-1](#), other work visas or Green Cards? VisaPro has answers to commonly asked immigration questions. [Click here](#) to find out more.



We congratulate **Bob Gray** for winning last month's Immigration Quiz. We received a significant number of responses from our readers, but **Bob Gray** gave the best answer and won a free online consultation to discuss the concerned Immigration issues.

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

FEATURED VIDEO

TN Canada: NAFTA Visas for Canadian Professional Workers

TODAY'S TOPIC :
TN Canada: NAFTA Visas for Canadian Professional Workers

4. You have a bona fide job offer from a U.S. Employer;

Did You Know VisaPro regularly advices clients ranging from multinational executives to treaty investors, researchers & scientists?

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01:22 / 15:20 360p

TN Canada work visa is a very good alternative to H1B visa for Canadian nationals, avoiding the H-1B cap issues. Learn more about the qualifications for TN NAFTA visas, and how Canadian professionals can enter the US with greater ease..

[More Videos...](#)

[U.S. Embassy Consular Exchange Rate adjusted in India](#)

The United States Embassy and Consulates in India have adjusted the consular exchange rate from INR 51 to the dollar to INR 54 to the dollar. This new exchange rate becomes effective on April 23, 2012, and is effective for all rupee-denominated costs of applying for visas and passports, including the nonimmigrant visa application fee paid at HDFC bank branches prior to the scheduling of visa appointments. However, receipts there were issued by HDFC Bank prior to April 23, 2012 and which are still not more than a year old, will be honored.

[TPS Designated for Syria](#)

USCIS has announced that eligible Syrian nationals (and persons without nationality who last habitually resided in Syria) in the U.S. may apply for Temporary Protected Status (TPS). The [TPS](#) designation for Syria is effective March 29, 2012, and will remain in effect through September 30, 2013. The 180-day TPS registration period begins March 29, 2012 and ends on September 25, 2012. To be eligible for TPS, Syrians must meet all individual requirements for TPS, including demonstrating that they have continually resided and been continually physically present in the United States since March 29, 2012.

IN FOCUS

XML

The New H2B Regulations 2012: What You Need To Know

The DOL has recently amended its regulations governing the certification of the employment of foreign workers in temporary or seasonal non-agricultural employment under the H2B program. Under the new final rule, the temporary labor certification process has been revised. According to the DOL, the new provisions have been created to provide for increased worker protections for both U.S. and foreign workers. For the benefit of employers and H-2B program participants, we present in this article, a brief snapshot of some of the major changes brought about under the new regulation.

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H-1B VISA

(Persons in Speciality Occupation)

Quick, Easy, Economical. **Online Processing.**

VisaPro **Apply Now!**

QUESTIONS AND ANSWERS

Q1. I am a Citizen of Pakistan. I run a company from last 10 years and my father has a company in USA, which also I run from Pakistan. I Have B-1 Visa. Right now I move with my family to US. I am interested to get US Citizenship.

Ans. From the information provided by you, it is not clear whether you are currently in Pakistan or whether you are in the US. And, if you are in the US, in what immigration status are you currently in the US. These are relevant information that need to be understood before we can explore suitable options for you. Generally, you cannot become a US Citizen unless you have been a Green Card holder for at least 5 years, and you have spent more than half of that time on your Green Card being physically present in the US. From the information provided by you, it would appear that you do not have a Green Card, and hence, you may be quite a distance away from seeking US Citizenship at this time. You should contact an immigration attorney and review your situation to explore what options you may have to pursue and accomplish your desire to get US Citizenship.

Q2. My wife and I are interested in buying a house in the US to retire to! Please advise if we could do this and stay year round or if we would only be able to stay for a few months each year?

Ans. To be able to stay permanently in the US, you must be a Lawful Permanent Resident or a 'Green Card' holder. Merely buying a house in the US does not entitle you to seek a Green Card. In order to be eligible to obtain a Green Card and stay permanently in the US, you must generally be either sponsored by a close US Citizen relative or you must be sponsored by an employer who is offering you a permanent job in the US. Alternatively you may also be able to seek a Green Card if you make an investment of \$1 Million in a new commercial enterprise in the US (\$500,000 in certain specified circumstances). Additionally, one may also seek a Green Card by participating in the Diversity Lottery. However, entry to the Diversity Lottery is limited to citizens of only select, identified countries and as we do not know your nationality, we cannot comment whether you would be eligible to participate in the Diversity Lottery. Unfortunately at this time, merely purchasing a house in the US does not entitle you to seek a Green Card, and you must qualify to seek a Green Card generally in one or the other manner mentioned above.

If you have a house in the US, then you may seek an appropriate visitor visa to visit the US for any purpose connected with the house. Such visits, however, should be temporary, and you must be able to clearly demonstrate your intention to return back to your country of residence at the end of the period of stay granted to you. And how much time you may be granted on each trip would depend on various factors including the purpose of the visit, frequency of your visits, duration of each trip, etc.

You should consult an immigration attorney and discuss your situation thoroughly to understand what options may suit you in your situation.

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](#)

[More Q&A](#)

SUCCESS STORIES

"VisaPro is an excellent Online Immigration company. We were very pleased with all aspects of their services [[K-1 visa](#) + [Adjustment of Status](#)]. They made the immigration process reasonably simple and were always ready to help and give excellent advice.

We made many calls to VisaPro during our journey through the entire immigration process and were always very happy and relieved following our conversation with [VisaPro legal team], our VisaPro representative. Thank you so much for your fair and honest input with this very important issue we faced over the past several months...everything has turned out positively and we now enjoy our time together here in the USA.

We will recommend VisaPro to our friends and am sure our association with VisaPro will continue for a very long time."

Travis Kent
United States

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