



Immigration Law Information Memo

February 2008

Bond, Schoeneck & King, PLLC

New York

Albany ■ 518-533-3000
Buffalo ■ 716-566-2800
Ithaca ■ 607-330-4000
Long Island ■ 516-267-6300
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Oswego ■ 315-343-9116
Syracuse ■ 315-218-8000
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Kansas

Overland Park ■ 913-234-4400

Bond, Schoeneck & King, P.A.

Florida

Bonita Springs ■ 239-390-5000
Naples ■ 239-659-3800

Immigration Law Practice Group

Thomas G. Eron
Jitesh Malik
Mark P. Popiel
Kseniya Premo
Jennifer L. Tsyn
Caroline Westover

H-1B VISA FILING ALERT

Many U.S. employers have come to depend on the use of the H-1B Specialty Occupation Worker category to facilitate the temporary employment of foreign nationals in professional positions.

In 2008, the U.S. Citizenship and Immigration Services ("USCIS") is authorized to issue 65,000 H-1B approvals for those beneficiaries who possess at least a bachelor's degree, and an additional 20,000 approvals for those beneficiaries who have obtained a master's or higher degree from a college or university in the United States. These limits are often referred to as the "H-1B cap." These approvals authorize employment beginning October 1, 2008 (the beginning of the federal government's fiscal year).

Pursuant to federal regulations, interested U.S. employers may file H-1B petitions six months in advance of the start of the fiscal year. **This means that the earliest that a U.S. employer may submit a petition for a new H-1B worker, who has not already been counted against the H-1B cap, is April 1, 2008.**

In an unprecedented turn of events, last year, the USCIS reached its 65,000 H-1B cap in two days – having received almost twice as many petitions as the allotted quota by April 2. Further, it took only approximately four weeks for the USCIS to reach the H-1B quota for master's level candidates. The remaining cases were rejected.

We anticipate a similar, strong influx of H-1B filings this year. Employers are well advised to file their petitions for new H-1B employees on April 1, 2008 to avoid being closed out of consideration by the H-1B cap. If we can be of assistance in evaluating visa options for foreign national candidates or in preparing your H-1B petitions, we suggest that you contact us by **March 1, 2008** to allow adequate time to meet the April 1st filing date.

In Eastern and Central New York, call 315-218-8000 or e-mail:

Thomas G. Eron teron@bsk.com
Caroline M. Westover cwestover@bsk.com

In the New York Metro area, call 646-253-2300 or e-mail:

Jitesh Malik jmalik@bsk.com

In Western New York, call 716-566-2800 or e-mail:

Mark P. Popiel mpopiel@bsk.com

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