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The Law Firm For Entrepreneurs, Business Owners & Investors

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Did You Apply For An H-1B Visa?

What to Do Now That The Cap Has Been Reached

H-1B Visa Cap Reached in First 5 Days – What Will Happen?

Just as most experts predicted, the U.S. government just announced that it had received over 85,000 H-1B Visa applications and as such has already reached the statutory cap for 2014. As the cap has been reached, the government will no longer accept H-1B petitions that are subject to a cap. The cap was reached in both the advanced degree category (20,000 Cap) and the regular degree category (65,000 Cap). As the number of applications exceeds the available Visas, (the government has not communicated how many more than the cap they have) USCIS will use a random “lottery” system to select the lucky “winners.”

In terms of the process, the government will first conduct a lottery for the advanced degree category and if an advanced degree candidate does not get selected, he/she is added to the lottery for the regular degree category. The government has not communicated the day that they will provide the results of the lottery but it is expected that we should hear something during the week of April 7th. For those who are not selected, the government will likely return your petition and your filing fees. If you are selected, your petition will be receipted for April 15th and if you paid for premium processing you will have an answer by April 30th. For more information on H-1B Visas click [here](#).

What Can You Do If You Are Not One Of The Lucky People Selected?

So what can one do if you are not one of the lucky people selected? The short answer is not much but here are a few things you can consider:

1. Make sure that you were in fact subject to the cap. For example, if you previously had an H-1B Visa, there is a good chance that you were not in fact subject to a cap and you should have completed your application selecting the “cap exempt” option. I suspect that very few people fall in to this category and if you used a lawyer to process your petition you definitely should not have made this mistake. For those who completed the documentation on their own though, it may be worth checking to see if you made this mistake as USCIS will continue to accept and process petitions that are otherwise exempt from the cap.
2. You could also consider investigating other Visa options. For example, if the company you currently work for is a multi-national company where you have worked outside of the United States for a period of time, you may want to consider an L-Visa. Also, if you are Canadian or

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Mexican, you may want to consider a TN Visa. Finally, if you would like to start your own business, you could consider an E-2 or EB-5 Visa. In order to assess your options, it is imperative that you speak to a qualified immigration attorney.

3. Lobby Congress – Contact your Senate and House Representative. President Obama has received hundreds of letters from technology and other companies asking him to assist with the effort to get Congress to increase the Cap numbers. This is especially the case for technology employers who need specialized talent that they cannot find in the U.S.. In addition, while another visa option may be available for some people, many will now be faced with the very real fact that they must return to their country. For example, I have friends who just graduated from colleges in the United States who had employers submit applications on their behalf and all of them are biting their nails right now. In fact, I was one of the H-1B applicants who received an H-1B Visa when I graduated from Law School. If the cap had been met in that year, I too may have faced the possibility of being sent back to my country.

We will find out more about the results of the lottery soon so for now all we can do is be patient.

If you are considering an immigration Visa, contact Scott Legal Services, P.C.. For more information on this and other immigration Visas click [here](#). You can also call us at 212-223-2964 or email us at iscott@legalservicesincorporated.com.

Also, click [here](#) for your free **White Paper** that summarizes the top 10 Immigration Questions and Answers.