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Immigration Law Update

Current Developments in Immigration

This is the latest installment in our efforts to keep you apprised of the rapidly changing U.S. immigration environment. Some of the most recent changes could have a serious impact on you or your employees, and we urge you to communicate these changes to interested parties.

PULL ON YOUR BOOTS: H-1B CAP SEASON HAS ARRIVED

Once again, it's that time of year. You're in the thick of first-quarter goals, the peak of flu season, and battling weather delays. If you're an employer who relies at all on the talent of foreign workers, you're also planning ahead for FY2016 employment.

United States Citizenship & Immigration Services ("USCIS") will start accepting new H-1B petitions for the next fiscal year on Wednesday, April 1, 2015. Employers seeking to secure H-1B status for foreign workers should plan to start the process ASAP to increase the likelihood of obtaining an H-1B visa number. The statute allows for issuance of 65,000 H-1B visas each fiscal year, with an additional 20,000 available to beneficiaries who hold a U.S. Master's degree. As demonstrated by the lottery system that USCIS has utilized over the last two years, this number is far short of what U.S. employers need. Last year's H-1B cap season saw more than 172,500 petitions submitted during the first week of the filing period.

The gap between the statutorily permitted numbers and the market need puts the onus on employers to be proactive in planning. Employers should identify prospective foreign talent now, and plan to start the H-1B preparation process no later than the beginning of March. If, as in previous years, USCIS receives more petitions than it can accept, it will use a computer-generated random selection process to identify which petitions will be accepted for processing. Cases that are not selected will be returned to the petitioning employer and will not be eligible to re-apply for an H-1B number

until next year. For many professional workers, and particularly nationals of countries other than Mexico and Canada, the H-1B visa category represents the best option in terms of securing a work-authorized visa status. Starting the process now will ensure that these workers have the best chance possible of obtaining H-1B status in the year ahead.

For additional information about any of the topics presented here, please contact us. If you would prefer not to receive future e-mails of this nature, please unsubscribe on the link below.

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