

FEBRUARY 14, 2018 BULLETIN TO ALL IMMIGRATION CLIENTS

## H-1B (CAP) PETITIONS FOR H-4 VISA/EAD HOLDERS AND TN EMPLOYEES

As you are no doubt aware, this year's H-1B (cap subject) petitions must be filed on or after April 1, 2018. In addition to employers doing so for people in F-1 status (generally working on their Optional Practical Training), and due to some proposed changes in the law, we are asking employers to consider also filing these petitions for two other "groups" of employees.

First, and for the past several years, spouses of H-1B employees (in H-4 status) have been able to secure Employment Authorization Documents (EADs) if their spouse is at a certain point in the green card process. This has proven to be extremely valuable not only to the H-4 spouse but, of course, to U.S. employers who are able to employ them on this basis. Under the new Administration, however, there is a distinct possibility that employment authorization will be eliminated for people in H-4 status. While, again, there is no certainty around this issue, the mere fact that this may well happen triggers a need for employers to **determine if they have any employees in H-4 status and, if so, consider filing an H-1B petition on their behalf**. These petitions, like all of the others, must be filed on or immediately after April 1, 2018. Please review your list of employees and, if anyone falls into this category, contact us to discuss this option further.

The Administration has also raised several questions regarding the ongoing viability of the North America Free Trade Agreement (NAFTA). Included in this Agreement, of course, is the TN category available to Canadian "professionals" filling one of 63 enumerated occupational classifications set forth in the regulations. While, again, there is no certainty around this issue, **we are also encouraging clients to identify any employees in TN status and, then, contact us to see if they would be a good candidate for an H-1B visa**. If so, and again just to be on the "safe side," you may well consider filing an H-1B cap petition on their behalf.

Like all H-1B cap petitions, and so that all of the documentation is in order and the petitions are ready to be filed at the earliest possible date, we would need documentation regarding your H-4/EAD and/or TN employees as soon as possible. Therefore, and if you have employees in this situation and would like to proceed (or at least discuss this with us), please promptly contact your Cohen & Grigsby attorney/paralegal.

If you have any questions about any of the above information, or wish to discuss a particular immigration concern for any destination outside the United States, please feel free to speak with any member of our Global Immigration Practice by calling us at 412-297-4900. To receive future bulletins and news alerts, please send an e-mail to [bulletins@cohenlaw.com](mailto:bulletins@cohenlaw.com).

*NOTE: We are knowledgeable and experienced immigration professionals, but we are not authorized to practice law or give advice in every jurisdiction in which our clients do business. Therefore, and when appropriate and/or required by local laws, we seek the counsel of authorized immigration professionals within the target jurisdiction and work closely with them to evaluate immigration requirements and options, prepare and file applications, etc.*

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