



April 2014 Barnett Law Group Breaking News

MARCH MADNESS - Happy Spring! You may have noticed that we didn't publish a March Newsletter. That was due to the work crunch to meet the April 1 deadline to file FY 2015 H-1B petitions. Every year U.S. Immigration Law undergoes its own "March Madness" much like college basketball when tens of thousands of H-1B petitions are filed by U.S. employers for the 65,000 Bachelor's Degree slots and 20,000 U.S. Master's Degree slots available for professional worker nonimmigrant visas. Like last year the USCIS has announced that it has received a sufficient number of petitions under both the bachelor's and master's caps in the first 7 days of filing and that it will now conduct a random lottery to choose which petitions will be counted against the caps. This means that sometime later this month petitioners will be notified whether their petitions will be considered for processing. Last year 124,000 petitions were filed and this year's prediction is at least 150,000. Under our current visa allocation ½ or more of eligible workers who have a job offer in hand from a U.S. company will have their petitions rejected and will have to make other immigration plans, such as return to school or their home countries, or consider a more immigration friendly country like Canada. The scarce number of H-1B visa numbers highlights the pressing need for U.S. immigration reform not only for the undocumented but also for those foreign nationals seeking access under lawful immigration avenues. Long wait times of more than 5 years are the norm also for immigrant visas under family and employment visa categories. Not only does this system separate families; it also makes the U.S. less competitive for skilled foreign workers. The wait for FY 2016 is now pushed off to October 1, 2016.

L-1 Work Petition Denials Continue to Increase - Petitions by U.S.-based companies to transfer their foreign-based employees with specialized knowledge were denied 34% of the time in 2013. This compares with a 7% denial rate in 2007. At the same time the number of "Requests for Evidence" (RFE's) for additional evidence increased to 46% in 2013. Denials plus RFE's has led to an unpredictable climate for U.S. business owners with overseas companies.

Chile Joins the List of Visa Waiver Countries – On Feb. 28, 2014 Chile was added to the list of Visa Waiver Program countries. Chilean passport holders may apply for admission to the U.S. for a period of 90 days or less for business or pleasure without the need to obtain a nonimmigrant visitor's visa. The advantage of not having to obtain a visa is offset by the rules of the Visa Waiver Program which allow for no extensions of stay past 90 days and no change of nonimmigrant visa category.

Entrepreneurship Initiative – The Department of Homeland Security announced on April 7, 2014 that it would soon publish proposed rules to attract more talented foreign entrepreneurs and other highly skilled immigrants. Whether this indicates a recasting of the H-1B program or creation of another work visa category is unknown. **These proposed regulations also would include the long-awaited grant of work authorization for H-1B spouses.** This would mean that H-4 spouses would be able to work like L-2 and E-2 spouses.

Administrative Action vs. Congressional Inaction on Immigration – It remains to be seen how far the President can go in implementing discretionary immigration measures without Congressional pushback.

If you are interested in learning more about these new developments, please contact our firm at (713) 980-9939 or nsb@barnett-lawgroup.com.