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HOW TO TRANSFER AN H1B VISA HOLDER FROM ONE EMPLOYER TO ANOTHER

Background: Today, there is job loss and economic uncertainty much like what happened in 2008. In general, H1B visa status is for professional workers who have a bachelor's degree or higher.

The numbers: According to the labor certification statistics and USCIS data, approximately 70% of the H1B workers are employed in the tech sector.

H1B status is generally granted for a total period of 6 years.

The Cap and why that is important: Every year in March, USCIS conducts a lottery for H1B visas. There are 65,000 visas for US and global bachelor's degree holders and 20,000 for US master's degree holders, for a total of 85,000 visas. In 2022, there were 308,613 registrants for the lottery. Hence the chances of being picked up in the lottery are approximately 25% to 33% depending on applicant's level of education and the number of applicants.

The good news is that the laid off and terminated H1B workers have already been chosen in the lottery and have passed the first hurdle, so employers do not have to go through the process and uncertainty of the lottery.

Since the visa holder has been given H1B visa status, they can work for the remaining period of their visa 6-year validity. They can transfer their visa to a new employer.

While H1B visa holders are legal to work in the US, they can only work for the sponsoring employer.

This is an opportunity for startups and other employers in our region.

The transfer process:

The transfer process, as described below, is simple and well defined.

1. Identify the prospective H1B visa holder who is eligible to work for the employer.
2. Match the education of the potential employee-applicant with the job duties to be performed for the employer.
3. File a labor condition application with USDOL.

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4. File the application for transfer of the H1B visa to the new employer, with USCIS, along with applicable filing fees and documentation.
5. It is best to file the application for transfer of the H1B visa from one employer to another within a period of 60 days. 60 days is determined from the date of layoff or termination of the H1B employee.
6. If a quick reply is required, the employer can file the application with premium processing which mandates a reply from USCIS in 15 days.