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H-1B Cap Exempt Options

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You weren't selected in this year's H-1B Cap lottery. What next? Many know about the H-1B Cap lottery held annually in March with about a 1 in 3 chance of selection. If selected, an employer can file an H-1B petition on the employee's behalf for a start date no earlier than October 1st. However, for those who were not selected in the H-1B Cap lottery, an H-1B cap exempt petition may be an option.

What does it mean to be "cap exempt"?

Certain employers are exempt from the Cap lottery. This means that they can file an H-1B petition on behalf of an employee at any time without the employee having to be entered into and selected in the H-1B Cap lottery.

Which employers are cap exempt?

Cap exempt employers include: 1) Institutions of higher education, 2) nonprofit organizations affiliated with an institution of higher education, and 3) nonprofit organizations primarily engaged in research.

What if my employer doesn't fall within one of those categories?

Even if your employer does not qualify as a cap exempt organization, they may still be able to file an H-1B cap exempt petition on your behalf if you will conduct a majority of your work physically on-site at a cap exempt institution or organization. Here are a few examples:

- Employer is a private IT company and employee works onsite at a nonprofit research organization providing IT services.
- Employer is a private engineering firm and employee works as a civil engineer overseeing construction of a university's new library.

If your employer or worksite falls within one of the above categories, your employer may be able to file an H-1B cap exempt petition on your behalf. Contact our office today for a consultation!