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When Does One Become H-1B Cap Exempt - Change of Status/Visa Stamp?

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Submitted by Chief Editor on Jul 2nd 2019

At present I am working in OPT (expires in June 2020). I have an unused stamped H1B visa which I got in August? 2013 and my visa stamped in my passport on August,2014. However I never traveled/ worked with this H1B visa and expired in October?2016 without using or entry. I came to USA in January?2016 in F1 Visa. My question is can I use this unused stamped visa for cap exempt as transfer of employer from F1 visa to H1B visa now? or do I need to apply in Master?s cap next year.

ANSWER:

[Watch the Video on this FAQ: When does one become H-1B cap exempt - change of status/visa stamp?](#) ^[2]

Video Transcript

In your case if we counted from six years from August 2013 when your H-1B was approved, you are then okay or cap exempt till August 2019. But again, the policy has been that they count the six years from the date your H-1B expired which is 2014 not 2013. Policies can change overnight so I think you can apply for an H-1B exemption as an H-1B exempt worker.

[More...](#) ^[2]

Note: This is a verbatim transcript of the referenced audio/video media delivered as oral communication, and, therefore, may not conform to written grammatical or syntactical form.

Nonimmigrant Visas:

[Change of status](#) ^[3]

[H-1 Visa](#) [4]

[General Nonimmigrant Visa](#) [5]

FAQ Transcript:

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Unless the context shows otherwise, all answers here were provided by [Rajiv](#) [6] and were compiled and reported by our editorial team from comments and blog on [immigration.com](#) [7]

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Links:

[1] <https://immigration.com/faq/when-does-one-become-h-1b-cap-exempt-change-statusvisa-stamp>

[2] <https://youtu.be/rLXVQFiAm4Q?t=592>

[3] <https://immigration.com/visa/nonimmigrant-visas/change-status>

[4] <https://immigration.com/visa/nonimmigrant-visas/h-visa/h-1-visa>

[5] <https://immigration.com/visa/nonimmigrant-visas/general-nonimmigrant-visa>

[6] <http://www.immigration.com/law-offices-rajiv-s-khanna-pc>

[7] <http://www.immigration.com>

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