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Exempt from the H-1B Quota

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Submitted by Editor on May 2nd 2015

I got my H-1B petition approved last year, it got extended as well. I have never used any of these visas to work in the U.S. though I have travelled few times to U.S. but on B-1 visa for meetings with the customers. So the question is when do I become exempt from the H-1 quota?

ANSWER:

In your situation when you are outside the USA, you become exempt from the H-1 quota when you get your visa stamped. So I think USCIS interpretation of law is faulty and incorrect, because in my view as soon as H-1 is approved you should be exempt from the quota but USCIS has taken the position that unless you get the visa stamped from the consulate we will not consider you exempt if you are outside the USA. So it appears to me that you should be exempt from the quota.

Nonimmigrant Visas:

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