Specializing in Visas for Professionals

Martin J. Lawler

1 Post Street, Suite 475
San Francisco, CA 94104
Tel: 415-391-2010
www.aboutvisas.com
New Strategies for New Times

• Lack of H-1B Visa Numbers
• USCIS Restrictive Attitude
• Limited Immigrant Visa Numbers
• Recession Economy

Martin J. Lawler
Solutions

• Advanced Planning
• Be Visa Smart
• Get a MS Degree
Practical Training (OPT)

- One Year Work Permit
- Apply Before Graduation
- Tax Exempt
- Bridge to H-1B or Other Visas
Type of Employment?

- Paid Employment
  - Part and full time
  - Employer + 1099
  - Self-employment

- Unpaid Employment is Okay

- For Work Related to Degree
Document Work is Degree Related

- Letter(s) From Manager or HR
  - Job duties
  - Dates
  - How degree is related to work
Unemployment

- Only Up to 90 Days
- Violation Causes Loss of Status and SEVIS Termination!
- Remember Volunteer Work is Okay
Reporting Requirements

• DSO Must be Notified Within 10 Days
  – Address change
  – Name change
  – Unemployment
STEM

• Post Completion OPT For BS, MS or Ph.D. in:

Science, Technology, Engineering, Math, Computer Science Applications, Actuarial Science, Engineering Technologies, Biological and Biomedical Sciences,

Math & Statistics, Military Technologies, Physical Sciences, Science Technologies, Medical Scientists, & Chemical Engineering

Martin J. Lawler
STEM OPT

- 17 Month OPT Extension – 29 Months in All (will be extended to 36)
- Employer Must Register in “E-Verify”
H-1B Visas
Professional/Specialist

• 6 Year Work Visa (3yrs + 3yr ext)
  – Employer must sponsor
  – Job requires a degree
  – Individual degree or = work experience
  – Prevailing wage must be paid
  – No worker shortage need be proven
  – Not enough visas for applicants (In 2015, there were 233,000 applications for the 85,000 visas)
H-1B Process Overview

- Gather Data & Documents
- Post & File LCA
- File I-129 Form, LCA, & Documents With USCIS
- Petition Decided & Change of Status or Obtain Visa Stamp at Consul
Company Documents
For H-1B

• Letter Describing the Company, Job, and Terms of Employment

• For Small Company & Start Up:
  – Office lease
  – Business license
  – Brochure
  – Evidence of other employees

Martin J. Lawler
Foreign National Documents For H-1B

- College Degree (Transcript Optional) or Proof of Work Experience
- I-20, I-94 & OPT Card
- Copy of Passport
- License(s), if any
- Prior H-1B Approval Notice, if any
• **H-1B Occupations**
  
  – Accountants, Engineers, Financial Analysts, Social Workers, System Analysts
  
  – **Questionable**: Hotel Managers, marketing jobs, mid-level managers
  
  – **Not**: Bookkeepers, Import/Export, Real Estate Agents
  
  – See [www.aboutvisas.com](http://www.aboutvisas.com) for list
  
  – Watch out for contractors – consultants
  
  – Traveling computer jobs
H-1B Visa Numbers

• Available in April, valid October 1 – 65,000 + 20,000 for U.S. advanced degree holders (MS, PhD, etc.)

• # Exempt
  – University jobs
  – Changing jobs
  – Chile/Singapore numbers
  – E-3 for Australians
Practical Training to H-1B
The Timing Problem
When All Visas Are Used

4/1/2016
H-1B #s available for FY17

6/1/2016
Practical Training Issued

10/1/2016
H-1B #s active

4/1/2017
FY18 H-1B #s Available

6/1/2017
Practical training expires

8/1/2017
Grace period expires

10/1/2017
FY18 H-1B #s active

Gap in Status and Work Authorization
Grace Period

FY = Government Fiscal Year

Martin J. Lawler
• Changing H-1B Employers
  – New petition must be filed
  – Start work as soon as new petition filed
  – Must be in status when file for extension
  – Special rules for mergers and spin-off companies — usually no extension needed
• Other H-1B Rules
  – Immigrant intent permitted
  – H-4 visa for dependents but no work permit
  – Government filing fees
    • Training fee — $750 for company with < 25 employees; otherwise $1,500 — must be paid by employer
    • Petition fee — $320
    • Anti-fraud fee — $500
    • Not mandatory $1,225 premium processing fee
Notice of Action

**PETITION FOR A NONIMMIGRANT WORKER**

- **Receipt Date:** July 7, 2005
- **Notice Date:** September 13, 2005
- **Beneficiary:** Martin J. Lawler
- **Visa Class:** H-1B
- **Notice Type:** Approval Notice
- **Validity:** 08/23/2005 to 08/23/2008

The above petition and change of status have been approved. The status of the named foreign worker(s) in this classification is valid as indicated above. The foreign worker(s) must work for the petitioner, but only as detailed in the petition and for the period authorized. Any change in the period requires a new petition. Since this employment authorization starts from the filing of this petition, another employment authorization documentation is not required.

Please contact the IRS with any questions about tax withholding.

The petitioner should keep the upper portion of this notice. The lower portion should be given to the worker. He or she should keep the right part with his or her Form I-94, Arrival/Departure Record. This should be turned in with the I-94 when departing the U.S. The left part is for the petitioner's records. A person granted a change of status who leaves the U.S. must normally obtain a visa in the new classification before returning. The left part can be used in applying for a nonimmigrant visa.

The approval of this visa petition does not in itself give or change immigration status and does not guarantee that the alien beneficiary will subsequently be found to be eligible for a visa for admission to the United States, or for an extension, change, or adjustment of status.

**This Form Is Not a Visa nor May It Be Used in Place of a Visa.**

---

Please see the additional information on the back. You will be notified separately about any other cases you filed.

**U.S. Citizenship & Immigration Service**

**P. O. Box 30011**

**Laguna Niguel, CA 92677-0111**

**Customer Service Telephone:** (800) 375-5283

**Form I-797A (Rev. 06/07/93)N**

---

**Detach This Half for Personal Records**

**Receipt #** WAC-

**I-94#**

**NAME**

**CLASS** H-1B

**VALID FROM** 08/23/2005 UNTIL 08/23/2008

**PETITIONER:**

---

**Receipt Number**

**Immigration and Naturalization Service**

**I-94**

**Departure Record**

**Petitioner:**

---

**14. Family Name**

**15. Petitioner Name**

**16. Date of Birth**
TN Visa – Canadian/Mexican

• Jobs on Schedule 1
• Temporary up to 3 Years + Extensions
• Degree Required for Most Jobs
• Don’t be Fooled by Light Paperwork
• Must Maintain Nonimmigrant Intent
• No Numbers
TN (NAFTA) Professionals
(Schedule 1)

- Accountant
- Architect
- Computer Systems Analyst
- Disaster Relief Insurance and Claims Adjuster
- Economist
- Engineer
- Forester
- Graphic Designer
- Hotel Manager
- Industrial Designer
- Interior Designer
- Land Surveyor
- Landscape Architect
- Lawyer (including Notary in the province of Quebec)
- Librarian
- Management Consultant
- Mathematician (including Statistician)
- Range Manager/Range Conservationist
- Research Assistant (post-secondary educational institution)
- Scientific Technician/Technologist
- Social Worker
- Sylviculturist (including forestry specialist)
- Technical Publications Writer
- Urban Planner (including Geographer)
- Vocational Counselor
- Medical/Allied Professionals Dentist
- Dietitian
- Medical Laboratory Technologist (Canada)/Medical Technologist (Mexico and U.S.)

Martin J. Lawler
– Nutritionist
– Occupational Therapist
– Pharmacist
– Physician (teaching or research only)
– Physiotherapist/Physical Therapist
– Psychologist
– Recreational Therapist
– Registered Nurse
– Agriculturalist/Agronomist
– Animal Breeder
– Animal Scientist
– Apiculturist
– Astronomer
– Biochemist
– Biologist
– Chemist
– Dairy Scientist
– Entomologist

– Epidemiologist
– Geneticist
– Geochemist
– Geologist
– Geophysicist (incl. Oceanographer in Mexico & U.S.)
– Horticulturist
– Meteorologist
– Pharmacologist
– Physicist (incl. Oceanographer in Canada)
– Plant Breeder
– Poultry Scientist
– Soil Scientist
– Zoologist
– Teacher (College)
– Teacher (Seminary)
– Teacher (University)
– Veterinarian

Martin J. Lawler
Entrepreneur Visas

• E-1 Treaty Trader
• E-2 Treaty Investor
  – Substantial investment or trade
  – 50% + owned by treaty country citizens - future
  – Business, not passive investment
  – Executive, manager, essential knowledge worker
  – 2 to 5 year visa stamp
  – Admission for 2 years
  – Dependents may get work permits
Treaty Countries for E-1 and E-2 Visas

– Albania
– Argentina
– Armenia
– Australia
– Austria
– Azerbaijan
– Bahrain
– Bangladesh
– Belgium
– Bolivia
– Bosnia & Herzegovina
– Brunei
– Bulgaria
– Cameroon

– Canada
– Chile
– China (Taiwan)
– Colombia
– Congo (Brazzaville)
– Congo (Kinshasa)
– Costa Rica
– Croatia
– Czech Republic
– Denmark
– Ecuador

– Egypt
– Estonia
– Ethiopia
– Finland
– France
– Georgia
– Germany
– Greece
– Grenada
– Honduras
– Iran
– Ireland
– Israel
– Italy

Martin J. Lawler
– Jamaica
– Japan
– Jordan
– Kazakhstan
– Korea (South)
– Kosovo
– Latvia
– Liberia
– Lithuania
– Luxembourg
– Macedonia
– Mexico
– Moldova
– Mongolia
– Montenegro

– Morocco
– Netherlands
– Norway
– Oman
– Pakistan
– Panama
– Paraguay
– Philippines
– Poland
– Romania
– Serbia
– Senegal
– Singapore
– Slovak Republic
– Slovenia

– Spain
– Sri Lanka
– Suriname
– Sweden
– Switzerland
– Thailand
– Togo
– Trinidad & Tobago
– Tunisia
– Turkey
– Ukraine
– United Kingdom
– Yugoslavia

Martin J. Lawler
L-1 Multi-National Organization

- Executive/Manager (7 yrs)
- Specialized Knowledge (5 yrs)
- 1 Year Overseas Work With Multinational Organization
- 1 Year Visa For Start-up Company
- Problem For Small Companies
P-1 Athlete or Entertainer in Group

• For Competitions or Performers
• Up to 5 Years for Athletes
• Exceptional
• International Recognition
WELCOME TO AMERICA!
THIS WAY FOR GREEN CARDS
Family Based Permanent Resident/Green Card

- Marriage to a U.S. Citizen, 3-8 months
- Marriage to Green Card Holder, years
- Petition by Parents, 5+ years
- Petition by Sibling, 15 years
- 2-Step Process
  - Visa petition to prove relationship
  - Green card application via CIS/INS office or American Consul in home country
Employment Based Procedure
Green Card

Preference 1
• Extraordinary Ability
• Outstanding Researcher
• Multinational Co. Manager

Preference 2
MS or BS +5

Preference 3
Professional, Specialist, Other workers

Preference 4
Religious workers

Preference 5
Investors

PERM
• Labor Certification
• Prove worker shortage

I-140 Visa Petition
• Prove ability to pay wage
• Edu, work experience

Must have a current priority date for a visa number

Adjustment of status in U.S.

Immigrant visa at American Consul in home country

Prove Admissibility

Green Card

I-360

I-526
“Been waiting long?”
Labor Certification “PERM”

- Employer Sponsor
- Prevailing Wage
- Employee Must Have Education + Work Experience
- Recruiting to Prove Worker Shortage
- 1 – 2 Year Process
EB-5 Investors

- $500,000 (soon to be $800,000) in a Rural or High Unemployment Area
- $1 Million (may be $1.2M) in Other Areas
- Create 10 Jobs
- “Regional Center” — Limited Partnerships pool money to build projects i.e. Hotels
  - Downstream employment creation is permitted
EB-5 Investors

- Gifted Funds
- Loans
- Tracing Funds From Legal Source
EB-5 Case Study

- Ms. C From Indonesia Graduated From College in the U.S. and had an H-1B Visa
  - Received $500,000 gift from father
  - Invested in a regional center
  - EB-5 petition approved a few months later
  - Approval of conditional permanent resident status
Visa Lottery

• 50,000 green cards
• Only 1 application
• Do not pay
• Apply at www.state.gov
• Only people from certain countries
Immigration Service Centers

• Process Temporary Visas, Employment & Some Family-based Permanent Residence Applications
  – California
  – Vermont
  – Nebraska
  – Texas
  – Missouri – Processes some family cases

• Some Cases Are Interviewed at Local District Offices
Summary

• Plan Ahead for Limited Visa Numbers
• Develop a Green Card Plan
• Get an MS Degree
• Get Good Advice
• Ask Questions