

## HOW TO OBTAIN A PROFESSIONAL VISA (H-1B)

By Christopher A. Kerosky

The INS has a special visa for temporary foreign professionals hired by a U.S. employer, known as the H-1B. H-1Bs can be hired only for "specialty occupations," jobs requiring the equivalent of at least a bachelor's degree in the field. They must be professionals such as doctors, engineers, professors, accountants, lawyers, physical therapists, and computer professionals, but can apply to a host of other jobs. Under current law, no more than 107,510 H-1B visas can be issued this year, with the cap dropping to 65,000 per year next year.

In order to qualify, the employer must demonstrate that the position requires a professional in a specialty occupation and that the intended employee has the required qualifications. Typically, the minimum qualification is a university (bachelor's) degree or its equivalent. Employers must also pay a wage to every H-1B worker the prevailing wage, that is at least as much as what is typically paid in the region for that type of work. Employers cannot make the H-1B non-immigrants work under conditions different from their U.S. counterparts.

Since 1998, H-1B employers are required to pay an additional fee per visa to fund education and training programs for U.S. workers. The fee is currently \$1,000, in addition to a \$96 filing fee.

The H-1 visa is issued for 3 years, but can be extended up to 7 years. Presently, the processing of such visas takes between 4-6 months. As such it often is the quickest method of obtaining legal status with the right to work in the U.S. and a good alternative for persons with a university degree.

### About the author

CHRISTOPHER A. KEROSKY has practiced law since 1984 and has handled over 1000 immigration cases. He graduated from University of California, Berkeley Law School and was a former counsel for the U.S. Department of Justice in Washington D.C.