

FREQUENTLY ASKED QUESTIONS ABOUT H-1B EXTENSION PROCESS

Q: How soon can I file my H-1B extension?

A: The H-1B petition may be filed 6 months (180 days) in advance of your requested start date.

Q: What documents are required for my H-1B extension?

A: The following documents are required:

- Passport (valid 6 months beyond requested start date)
- Visa, I-94, and prior I-797 Approval Notices
- Degree, transcript, and evaluation/translation
- Current resume
- Two most recent pay stubs and most recent W-2
- Teaching Certificate (**valid for the entire period of the requested visa extension**)

Q: The H-1B Cap for this year has closed. Will this affect me?

A: No, this will not affect your H-1B extension.

Q: How long can I work on an H-1B visa?

A: The visa is valid for 3 years only and can be renewed for an additional 3 years. Your total stay in the US may not exceed 6 years.

Q: Are there any exceptions to the 6-year limit in H-1B status?

A: Yes, an exception is made for workers who have a Labor Certification (PERM) pending with the Department of Labor, or who have an approved I-140 Immigrant Petition. Workers with a pending PERM are eligible to extend their H-1B status in one-year increments; workers with an approved I-140 may resume extending H-1B status in three-year increments until their priority date becomes current and a green card becomes available.

Q: When must I file for an extension of my H1B visa?

A: A petition for extension of H1B status must be filed prior to the date your authorized stay expires. The date that your period of authorized stay expires is noted on your I-94.

Q: Can I work while my H1B extension petition is pending?

A: Yes, if the extension petition is filed prior to the I-94 expiration date, then you are authorized to continue working for 240 days while the petition is pending.

Q: Should I use premium processing?

A: If you plan on traveling, then we suggest that you either file your petition extension 6 months in advance OR pay for premium processing when you file your H1B extension petition. The USCIS charges \$1,225 for premium processing and guarantees you will have a response to your petition in 15 days from the date USCIS receives your petition. If you choose not to use premium processing the USCIS will adjudicate your petition in 4-6 months. Once you have received approval of your H1B extension petition you may travel outside of the U.S.

Q: Can I travel while my H-1B extension petition is pending?

A: Traveling while an H-1B extension petition is pending does not abandon the extension petition. If the extension is approved while you are outside of the U.S., it will be necessary to send you the new approval notice abroad. The latest approval should always be used when entering the United States. Otherwise, the I-94 will be issued with the end date of the previous approval and it will be necessary to exit and reenter the U.S. to obtain an updated I-94. This is because USCIS considers the last I-94 issued to be the current, active one. If your extension is pending, you still need a valid H-1B visa and a valid H-1B approval notice to reenter the U.S. If your current visa has less than 30 days of validity remaining you may not be allowed to re-enter the US. Travel during the 240 day automatic extension of work authorization after the current H-1B period (as indicated on your current I-797/H-1B Approval Notice) has expired is not allowed. If you travel during this time, you will need to stay

abroad until the extension is approved and apply for a new visa to be readmitted to the U.S. in H-1B status.

Q: Do I need a valid H-1B to travel to Canada or Mexico?

A: The “automatic extension of validity” provision allows most H-1B workers to reenter to the U.S. without a valid H-1B visa stamp after a trip to either Canada or Mexico that lasts no more than 30 days. Automatic revalidation is not applicable to nationals of countries identified by the U.S. as state sponsors of terrorism. For a list of these countries, go to <http://www.state.gov/s/ct/c14151.htm>.

While F and J non-immigrants can use automatic revalidation to re-enter the United States after trips to the Caribbean, H-1B workers cannot. H-1B travel under this provision is limited to Canada and Mexico.

To take advantage of this provision, the following must be true:

1. The visit to Canada or Mexico is for 30 days or less.
2. Your passport must be valid for at least six months from your date of re-entry to the U.S.
3. You must possess your I-94 card, which shows an unexpired period of initial admission or extension of stay.
4. You must possess your H-1B approval notice (bottom left side of I-797).
5. You must apply for readmission within the authorized period of initial admission/extension of stay.
6. You must have maintained and intend to resume your nonimmigrant status.
7. You did not apply for a new visa stamp while in Canada or Mexico.

Please remember when exiting the U.S. that you should not surrender your I-94 card; you will need it to re-enter under the provisions of automatic revalidation. Note that automatic revalidation applies only when re-entering the United States. You may need to obtain a Canadian or Mexican visa stamp to enter Canada or Mexico.

NOTE: *Any non-immigrant who applies for a new H-1B visa in Canada or Mexico and is refused a new H-1B visa, or has an application for a new H-1B visa **pending**, will **not** be able to re-enter the United States. When applying for a visa stamp in any country, there is always a risk of being delayed for security clearance.*

Q: Do I need a valid teaching certificate when I apply for my H1B extension?

A: Yes, in order to qualify for an H1B extension you must have a valid teaching certificate. Our office cannot file an extension petition until you provide us with a teaching certificate which is valid for the period of time requested in the extension petition. For example, if we are asking the USCIS to extend your H1B status thorough 08/01/2013 we must submit a teaching certificate which is valid thorough 08/01/2013.

Q: Can I obtain a Social Security number?

A: Yes. You must apply at your local Social Security Administration office.

Q: Can I work for another company?

A: No, unless you transfer your Visa to a new sponsor. The new sponsor is required to file a separate H-1B Petition on your behalf.

Q: Can I apply for an H-1B Visa without a sponsor?

A: No, you will always need a sponsoring company for your H-1B Visa Application.

Q: Can I work for my sponsor and another company at the same time?

A: Under certain circumstances, you may qualify for two concurrent H-1Bs. The new sponsor is required to file a separate H-1B Petition on your behalf before you may begin employment.

Q: When transferring from one employer to another, when can I start working for my new H-1B sponsor?

A: When we receive the initial receipt from USCIS (after the new H-1B Petition is filed).

Q: Can I travel with my Approval Notice?

A: H-1B Approval Notice from the USCIS is NOT a visa (permission to enter the U.S.). You must apply for an H-1B visa in your passport at a U.S. Consulate outside the U.S. in order to reenter the U.S. after travel abroad.

Q: Do I have to go to a U.S. Consulate if I am not planning to travel outside the US?

A: No, if you do not plan to travel outside the US, you do not need to go to a consulate to apply for an H-1B Visa in your passport.

Q: I am not planning to travel outside the US. Do I need to take any action following H-1B Approval?

A: Once you receive approval of your H-1B extension petition, you must provide a copy of the H-1B Approval Notice to your employer's Human Resources as proof of valid work authorization.

Q: My H-1B extension was approved for three years. Why was my H-1B visa only issued for one year?

A: U.S. Consulates in Mexico have begun issuing employment visas in one-year increments only. If your petition was approved for three years you will not be required to file a new petition with USCIS at the expiration of your current visa, however you may need to apply for a new visa through a consulate in order to re-enter the US after travel abroad. If your I-94 was also issued for one year, you will need to depart the US prior to its expiration. If your I-94 was issued for three years, you may remain in the US and continue working after the visa expires.

Q: Can I bring my family to live in the US?

A: Yes, spouses and children under age 21 are eligible for an H-4 visa (dependent visa).

Q: Can my family members work with an H-4 Visa?

A: No.

Q: Can my family members obtain a Social Security Number?

A: No, H-4 visa holders may only obtain a TIN (Tax Identification Number).

Q: Can I apply for Permanent Residency with this kind of visa?

A: Yes, you may apply for Permanent Residency.

Q: Can my family apply for Permanent Residency with H-4 Visa?

A: If you have applied for Permanent Residency, your dependents may apply for Permanent Residency.

Q: If my family stays in their home country without applying for the H4 visa, will this affect us at the time of applying for the permanent residency?

A: No.

Q: Must all dependents (H4) enter US together the first time with the H-1B visa holder?

A: No.

Q: If both husband and wife have an H-1B, which of them should include the children as the (H4) dependents?

A: Either or both.

Q: Can my child attend college or a university in the US while I'm on an H-1B visa?

A: Yes. However, H-4 status is dependent upon the principal beneficiary's H-1B status and does not hold valid if the principal visa holder goes out of status. H4 status also ends at age 21 for children. They may remain to finish school by changing to a new immigration status.

Q: How can I keep track of my application once it has been submitted to USCIS?

A: Use the receipt number from your form I-797, Notice of Action and check the status at the following website: <https://egov.uscis.gov/cris/caseStatusSearchDisplay.do>

Q: Once the USCIS website shows that my H-1B has been approved, what is the process?

A: If you are in the US you will receive an original approval notice (Form I-797) approving your extension. It will contain a tear-off replacement I-94 card on the bottom of the notice; you must place this new I-94 in your passport. You must present a copy of your new I-94 to your employer as proof of your authorization to work.

If you are outside of the US when your approval is granted, you must wait until you have received the original approval notice (Form I-797) by mail. Once you have the approval notice, you must make an appointment at a Consulate and go through the interview process. Once you are approved and have obtained the visa stamp in your passport, you can enter the US.

Q: What happens if I get laid off or resign?

A: You may:

- a) Find a new sponsor;
- b) Return to your country; or
- c) Change your status to another non-immigrant visa.

You must depart the US as soon as employment ends or you may begin to accrue unlawful presence in the United States which may subject you to a three (3) or ten (10) year bar from re-entry into the United States.

Q: What if the person is currently in the US with a current visa and passport but the I-94 is expired. Can they apply for an H-1B visa?

A: No.

Q: What if my visa was approved for three years and my passport expires before then?

A: You can go to a consulate of your country located in the US and renew your passport.

Q: I live in one city but my approval has another city as the consulate site. Can this be changed to the one I want?

A: Yes.

Q: How early can I enter the US once my H-1B has been approved?

A: 10 days before the beginning date of your H-1B period and after you have obtained a stamp in your passport from the Consulate.

Q: Once the visa has been approved, can I enter the US through a state other than Texas?

A: Yes, you may enter through any port of entry.

Q: At what point should I stop using my tourist visa to enter the US?

A: Once you have an approved H1B and obtained a stamp in your passport from the Consulate.

Q: Once I have my H-1B visa approved, should I ever use the tourist visa again?

A: No, in order to be able to work in the US you must enter on your H-1B visa. If you are no longer employed under a valid H-1B you may seek entry into the US on a tourist visa if you intend to enter the US for pleasure. You may never work in the US on a tourist visa.

Q: Can my family use a tourist visa if they don't have the H4 visa?

A: They need to apply for H-4 visa.

Q: May I re-enter the US on my H-1B visa after traveling?

A: An H-1B visa allows the holder to reenter the USA during the validity period of the visa and approved petition. Anytime you depart the U.S. for any country other than Canada or Mexico, it is important that you surrender your I-94 card (the small white card stapled in your passport) to the airline or other port-of-departure official. In order to return to the U.S. in H-1B status, you must have a valid H-1B visa, a passport that is valid for at least six months into the future from the date of your entry, and the I-797 Approval Notice. When re-entering the U.S., take a close look at the new I-94 card given to you by the port of entry inspector to be certain that you have been admitted for the proper duration of time. It is important to note that the port of entry inspector is permitted to admit you for a period up to ten (10) days beyond the end date of the Approval Notice, though few inspectors choose to grant this extra "grace period." If you are granted the extra ten days to remain in the U.S., you must still cease employment on the end date of your I-797 Approval Notice.

Q: Is there a limitation of how many times I can leave and re-enter the US while I'm on an H-1B visa?

A: No, but it is important to keep proof of your entries and exits for purposes of recapturing time later.

Q: In the past as a tourist an H-1B candidate did not pay a traffic fine, nor attend the court appointment while in a state other than Texas. Could this affect the visa petition?

A: No. However, failing to pay traffic fines or failing to attend a court date may have criminal consequences, you should speak to a criminal attorney if you find yourself in this situation.

Q: The H-1B visa will make you a "resident alien." If so, can the applicant still apply for the temporary importation of their vehicles?

A: Yes.

Q: What about bringing my pets?

A: Pet and animal importation to the United States is subject to health, quarantine, agriculture, wildlife, and customs requirements and prohibitions. Pets taken out of the United States and returned are subject to the same requirements as those entering for the first time. Sadly, pets excluded from entry into the United States must either be exported or destroyed. While awaiting disposition, pets will be detained at the owner's expense at the port of arrival. The [U.S. Public Health Service](#) requires that pet dogs and cats brought into this country be examined at the first port of entry for evidence of diseases that can be transmitted to humans. Dogs coming from areas not free of rabies must be accompanied by a valid rabies vaccination certificate. Dogs, cats, and turtles are free of duty. Other pets imported into the United States, if subject to a customs duty, may be included in your customs exemption if they accompany you and are imported for your personal use and not for sale. Purebred animals other than domesticated livestock that are imported for breeding purposes are free of duty under certain conditions. A declaration is required to show that the importer is a citizen of the United States; that the animal is imported specifically for breeding purposes; that it is identical with the description in the certificate of pedigree presented; and that it is registered in the country of origin in a book of registry recognized by the U.S. Department of Agriculture. An application to the Department of Agriculture on [VS Form 17-338](#) for a certificate of pure breeding must be furnished before the animal is examined at the designated port of entry. For complete details, contact the [National Center for Import and Export](#) of the U.S. Department of Agriculture's (USDA) Animal and Plant Health Inspection Service (APHIS). You should also check with state, county, and municipal authorities for local restrictions on importing pets.

Q: Where do I find out about bringing in furniture or appliances from my home country?

A: You should check with your local port freight shipping companies such as <http://www.shipping-worldwide.com/>; <http://www.ablecargo.com/> for your furniture items. Please keep in mind that the US electrical system works on 110V and the U.K. one works on 240V, therefore some of your existing electronic items will not work and should not be transported.

Disclaimer: Nothing on this document should be taken as legal advice for any individual case or situation. The information is intended to be general and should not be relied upon for any specific situation. For legal advice, consult an attorney experienced in immigration law.

TWC: Texas Workforce Commission

DOL: United States Department of Labor

USCIS: United States Citizenship and Immigration Services

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