



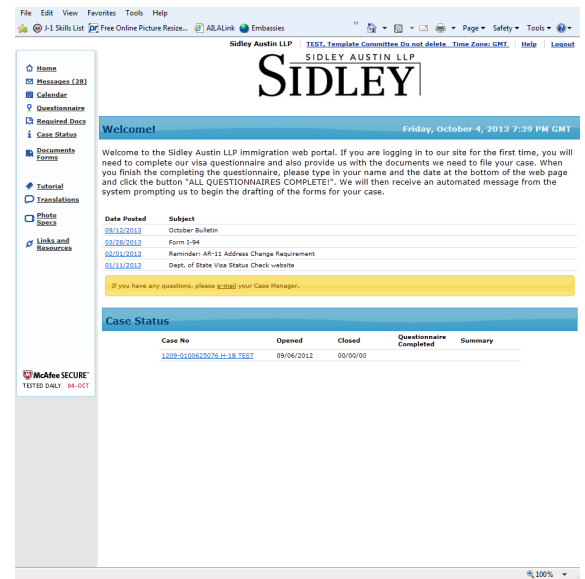
driver's license. If your driver's license will expire while your H-1B petition is pending, some DMV offices will agree to issue a temporary driver's license based upon the receipt notice for the H-1B extension filing.

## 240 Day Rule for Extensions

If you are filing an extension of your H-1B status with the same employer and the underlying validity period of your current status expires, federal regulations permit you to remain in the United States in a work-authorized status for up to 240 days while you wait for decision to be issued. This is known as the "240 day rule." If you take advantage of the 240 day rule, then you should not travel internationally until your H-1B petition has been approved.

## Status Information and Processing Times

You can log on to your personal web page at [ww4.welcomeclient.com](http://ww4.welcomeclient.com) with your assigned user ID and password to view your receipt information, which we input into the system as soon as it arrives. Your web page contains a link to the USCIS website, where you can get a real time report on the status of your case. You can also sign up to receive automatic updates from the USCIS website. The normal processing time for an H-1B petition can be anywhere between 3 to 5 months. In some cases the process can take even longer. Under premium processing, the USCIS is obligated to make a decision within 15 days. A case can be filed under premium processing or upgraded to premium at any time after filing. The USCIS has the option of either approving the case or issuing a request for additional evidence (RFE) asking for more detailed information. Once the response to the RFE has been filed, the case can resume processing.



## I-9 Compliance

All employers must complete an I-9 form to verify a new employee's identity and work authorization. If you are starting your position under H-1B portability rules, then you can complete the I-9 process by showing your employer an unexpired passport, together with your most recent I-94 card and your H-1B receipt notice. When the H-1B petition is ultimately approved, your employer should update your I-9 records with the approval information and track the H-1B expiration date for I-9 reverification.

## FICA Tax Liability

If you are a student in F or J status who is changing to H-1B, please be aware that your exemption from federal FICA tax will end upon the effective date of your H-1B. When your H-1B petition is approved, you should make sure that your employer's payroll withholding system is updated accordingly, otherwise you could be liable for back taxes.

## International Travel while H-1B is Pending

If you are currently in the United States and need to travel internationally while your H-1B petition is pending, you should contact the attorney or paralegal working on your case to make sure the trip does not adversely affect your petition. Generally, if you are filing a change of status to H-1B from another nonimmigrant visa category, travel will cause the USCIS to deny the change of status portion of your petition. As a result, once your H-1B is approved, you will have to depart the United States and reenter in order to activate your new status. If you are filing an extension of stay or a change from one H-1B employer to another, then you can travel during the pendency of your H-1B provided you have a valid and unexpired H-1B visa stamp in your passport. This is the case even if your unexpired visa was issued under a previous employer's name. If your H-1B visa stamp has expired and you travel while your H-1B extension is pending, then you will have to remain outside the United States until the extension is approved.

If you have any questions regarding this fact sheet, please contact the Sidley lawyer with whom you usually work.

## The Immigration Practice of Sidley Austin LLP

Our Immigration Practice develops a comprehensive and cost-effective strategy to address the unique immigration needs of each client. The legal services we offer include assistance in obtaining temporary visas, permanent residence and U.S. citizenship. We also provide employees with immigration advice related to mergers and acquisitions, corporate law, international tax, I-9 compliance and other labor issues affecting the employment of foreign nationals. We routinely represent clients before The Department of Homeland Security, Department of Labor, Department of State and U.S. consular posts worldwide.

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