The New Fee and What It Covers

The recent $100,000 filing fee for certain H-1B visa petitions applies mainly to new petitions filed for foreign nationals outside the United States who do not currently hold valid H-1B status. This fee targets petitions involving consular notification or port-of-entry processing for new entrants.

However, if a beneficiary is already in the U.S. and the petition is filed as a **change of status**, **extension of stay**, or **amendment**, the additional $100,000 fee does not apply. This distinction is crucial for applicants and employers planning to change visa categories while inside the country.

How Status-Change Inside the U.S. Avoids the Fee

Applicants who are already in the United States on a nonimmigrant visa such as F-1 (student) or L-1 (intra-company transferee) can have their employer file an H-1B petition as a **change of status** without leaving the country. Since this process does not involve consular processing, the $100,000 fee is not triggered.

Once the petition is approved, the applicant can either remain in the U.S. on H-1B status or travel abroad, obtain the H-1B visa stamp, and re-enter the U.S. without paying the additional fee. The key factor is that the petition must have been approved as a change of status while the applicant remained inside the country.

Typical Scenario: F-1 → H-1B (Change of Status)

1. A student on F-1 status completes their studies or works under OPT/CPT.
2. Their employer sponsors them for an H-1B visa and files the petition as a **change of status** while they remain in the U.S.
3. The petition is approved, and the individual transitions to H-1B status without leaving the U.S. or paying the extra $100,000 fee.
4. Later, they may travel abroad and re-enter with an H-1B visa stamp without incurring the fee.

L-1 → H-1B and Other Similar Situations

The same principle applies to those on an L-1 visa or any other valid nonimmigrant status. If the H-1B petition is filed as a change of status while the individual is in the U.S., the new fee does not apply. Once approved, the person can continue working in H-1B status or re-enter the country later using their new visa classification without being subject to the fee.

Why This Matters for Employers and Applicants

- The $100,000 fee is a significant financial burden, so avoiding it through a change-of-status filing is highly advantageous.
- International students (F-1) and intra-company transferees (L-1) already in the U.S. can transition to H-1B status without leaving the country.
- Employers should ensure the petition clearly requests a change of status rather than consular processing.

- Timing and maintaining valid status during the transition are essential to remain eligible for the exemption.

Important Caveats

- The avoidance of the $100,000 fee applies only to change-of-status petitions filed within the U.S.
- Standard H-1B fees, such as base filing, ACWIA, fraud prevention, and optional premium processing fees, still apply.
- Applicants must meet all H-1B eligibility requirements, including specialty occupation and valid employer-employee relationship.
- Traveling abroad before the change-of-status approval could trigger the fee if the petition converts to consular processing.

Conclusion

For students on F-1 visas, L-1 transferees, and other nonimmigrant visa holders already inside the United States, filing for a change of status to H-1B offers a legitimate way to avoid the newly implemented $100,000 fee. By staying in valid status during the process and ensuring proper petition classification, applicants can transition smoothly to H-1B status and later re-enter the U.S. without additional cost. This strategy allows both employers and employees to maintain compliance while avoiding unnecessary financial strain.