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U.S. Citizenship  
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FILE: EAC 03 151 52169 Office: VERMONT SERVICE CENTER

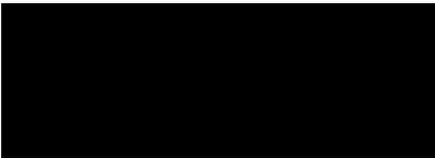
Date: FEB 24 2005

IN RE: Petitioner:  
Beneficiary:



PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(i)(b)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All materials have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The service center director denied the nonimmigrant visa petition. The matter is now on appeal before the Administrative Appeals Office (AAO). The appeal will be sustained. The petition will be approved.

The petitioner is an importer and wholesaler of seafood products. It seeks to employ the beneficiary as an accountant and to classify her as a nonimmigrant worker in a specialty occupation pursuant to section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(H)(i)(b).

The director denied the petition on the ground that the proffered position is not a specialty occupation. The director found that the position primarily involved the duties of a bookkeeper/administrative secretary, rather than an accountant.

Section 214(i)(1) of the Act, 8 U.S.C. § 1184(i)(1), defines the term "specialty occupation" as an occupation that requires:

- (A) theoretical and practical application of a body of highly specialized knowledge, and
- (B) attainment of a bachelor's or higher degree in the specific specialty (or its equivalent) as a minimum for entry into the occupation in the United States.

As provided in 8 C.F.R. § 214.2(h)(4)(iii)(A), to qualify as a specialty occupation the position must meet one of the following criteria:

- (1) A baccalaureate or higher degree or its equivalent is normally the minimum requirement for entry into the particular position;
- (2) The degree requirement is common to the industry in parallel positions among similar organizations or, in the alternative, an employer may show that its particular position is so complex or unique that it can be performed only by an individual with a degree;
- (3) The employer normally requires a degree or its equivalent for the position; or
- (4) The nature of the specific duties is so specialized and complex that knowledge required to perform the duties is usually associated with the attainment of a baccalaureate or higher degree.

Citizenship and Immigration Services (CIS) interprets the term "degree" in the criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A) to mean not just any baccalaureate or higher degree, but one in a specific specialty that is directly related to the proffered position.

The record of proceeding before the AAO contains (1) Form I-129 and supporting documentation; (2) the director's request for evidence (RFE); (3) the petitioner's response to the RFE; (4) the notice of decision; and (5) Form I-290B, the appeal brief, and supporting documentation. The AAO reviewed the record in its entirety before issuing its decision.

The record indicates that the petitioner was incorporated in the State of Illinois in April 2001 as a wholly owned subsidiary of [REDACTED], a Thai subsidiary of [REDACTED] headquartered in Bangkok, Thailand. In January 2002 the petitioner filed its original nonimmigrant visa petition with the Nebraska Service Center (LIN 02 092 52977) on behalf of another accountant [REDACTED]. The petition was approved on April 29, 2002 and Mr. [REDACTED] acquired an H-1B visa. That same month, however, CP Group decided to relocate the petitioner's operations from Chicago to another CP Group subsidiary in Columbia, Maryland, Capt'n's Pack Products, Inc. Mr. [REDACTED] assumed the accounting tasks of both companies, but subsequently resigned and returned to Thailand, whereupon the petitioner's Vice-President, Tepparat Lertsarunyapong, took over the two companies' accounting duties. The instant petition was filed with the Vermont Service Center in April 2003 for the purpose of conferring the subject accounting duties on the beneficiary.

The petition was denied by the Vermont Service Center on the ground that the proffered position was not a specialty occupation. In the director's view, the duties of the position appeared to describe a bookkeeper/administrative secretary, which was not a specialty occupation because it did not require a body of highly specialized knowledge and a bachelor's degree in a specific specialty.

On appeal counsel asserts that the proffered position is that of an accountant, not a bookkeeper. As supporting documentation counsel submitted, *inter alia*, photocopies of the previous H-1B petition filed on behalf of Mr. [REDACTED] including a three-page description of his job duties, and the Nebraska Service Center's notice of approval. Counsel asserts that the beneficiary's duties, as the replacement accountant, are the same as those performed by his predecessor. As described in the original petition, the duties of the position involve a series of daily and weekly tasks overseeing and implementing the petitioner's purchasing and sales systems, its accounts receivable and accounts payable systems, as well as its inventory and assets systems. The continuous monthly and yearend tasks were listed as follows:

- Verify the accuracy of [the petitioner's] records and check for mismanagement, waste or fraud.
- Evaluate company's efficiency, effectiveness, and compliance with headquarter policies and procedures, laws, and government regulations.
- Analyze and interpret the financial information by preparing weekly performance report corporate executives need to make sound business decisions.
- Summarize business's transactions in standard formats for financial records and organize data in special formats for financial analysis.
- Apply principles of accounting to analyze financial information and prepare financial reports.
- Analyze financial information detailing assets, liabilities, and capital.
- Prepare balance sheet, profit and loss statement, and other reports to summarize current and projected company financial position.
- Implement manual and computer-based system (Astra system) for general accounting.
- Analyze past and present financial operations and estimate future revenues and expenditures to prepare budget.
- Conduct periodic inventories to keep records current and ensure the equipment is properly maintained.
- Perform physical inventories count at year's end.
- Prepare statements reflecting monthly appreciated and depreciated values.

- Prepare schedules for amortization of buildings and equipment.
- Prepare monthly financial statement.
- Prepare accounting package for each quarter requested by headquarters in Thailand.
- Reconcile trial balance accounts to monthly general ledger.
- Assist with yearend audit by outside auditors.
- Communicate with the company's bank for lending and investment needs.

In determining whether a position meets the statutory and regulatory criteria of a specialty occupation, CIS routinely consults the Department of Labor (DOL)'s *Occupational Outlook Handbook (Handbook)* as an authoritative source of information about the duties and educational requirements of particular occupations. Factors typically considered are whether the *Handbook* indicates a degree is required by the industry; whether the industry's professional association has made a degree a minimum entry requirement; and whether letters or affidavits from firms or individuals in the industry attest that such firms "routinely employ and recruit only degreed individuals." See *Shanti, Inc. v. Reno*, 36 F.Supp. 2d 1151, 1165 (D.Minn. 1999) (quoting *Hird/Blaker Corp. v. Sava*, 712 F.Supp. 1095, 1102 (S.D.N.Y. 1989)). CIS also analyzes the specific duties and complexity of the position at issue, with the *Handbook's* occupational descriptions as a reference, as well as the petitioner's past hiring practices for the position. See *Shanti, id.*, at 1165-66.

The AAO finds that the duties of the proffered position in this case accord with the *Handbook's* description of an accountant. That description reads, in pertinent part, as follows:

Accountants and auditors help to ensure that the Nation's firms are run efficiently, its public records kept accurately, and its taxes paid properly and on time. They perform these vital functions by offering an increasingly wide array of business and accounting services to their clients . . . includ[ing] public, management, and government accounting, as well as internal auditing. Beyond the fundamental tasks of the occupation – preparing, analyzing, and verifying financial documents in order to provide information to clients – many accountants now are required to possess a wide range of knowledge and skills. Accountants and auditors are broadening the services they offer to include budget analysis, financial and investment planning, information technology consulting, and limited legal services . . . .

Management accountants – also called cost, managerial, industrial, corporate, or private accountants – record and analyze the financial information of the companies for which they work. Other responsibilities include budgeting, performance evaluation, cost management and asset management. Usually, management accountants are part of executive teams involved in strategic planning or new-product development. They analyze and interpret the financial information that corporate executives need to make sound business decisions. They also prepare financial reports for nonmanagement groups, including stockholders, creditors, regulatory agencies, and tax authorities. Within accounting departments, they may work in various areas including financial analysis, planning and budgeting and cost accounting.

*Handbook*, 2004-05 edition, at pages 68-69. The *Handbook* goes on to state that most accountant positions require at least a bachelor's degree in accounting or a related field. *Id.* at 70.

The AAO is persuaded by the evidence of record that the petitioner will employ the beneficiary as an accountant. The federal income tax returns for the petitioner and [REDACTED] in 2001 record gross receipts that year of approximately \$38 million and \$53 million, respectively. The latter company's tax return also lists accounting expenses of \$24,698. In view of the petitioner's volume of business, the nature of the petitioner's business operation, and the specificity of the job duties, the AAO concludes that the proffered position is that of an accountant. Since the *Handbook* indicates that a bachelor's degree in accounting or a related field is normally required for entry into an accounting position, the AAO determines that the proffered position qualifies as a specialty occupation under 8 C.F.R. § 214.2(h)(4)(iii)(A)(1).

As provided in 8 C.F.R. § 214.2(h)(4)(iii)(C), the beneficiary must meet one of the following criteria to qualify to perform services in a specialty occupation:

- (1) Hold a United States baccalaureate or higher degree required by the specialty occupation from an accredited college or university;
- (2) Hold a foreign degree determined to be equivalent to a United States baccalaureate or higher degree required by the specialty occupation from an accredited college or university;
- (3) Hold an unrestricted State license, registration or certification which authorizes him or her to fully practice the specialty occupation and be immediately engaged in that specialty in the state of intended employment; or
- (4) Have education, specialized training, and/or progressively responsible experience that is equivalent to completion of a United States baccalaureate or higher degree in the specialty occupation, and have recognition of expertise in the specialty through progressively responsible positions directly related to the specialty.

The beneficiary holds a bachelor of science in accounting from Thammasat University in Bangkok, Thailand, which was granted on February 23, 1997. The record includes a credential evaluation report from [REDACTED] in New York, New York, dated April 16, 2003, declaring that the beneficiary's degree from Thammasat University is equivalent to a bachelor's degree in accounting from a regionally accredited institution in the United States. Based on the foregoing evidence the AAO determines that the beneficiary is qualified, in accordance with 8 C.F.R. § 214.2(h)(4)(iii)(C)(2), to perform the services of the pertinent specialty occupation, as an accountant.

Thus, the record establishes that the proffered position is a specialty occupation and that the beneficiary is qualified to perform the services of that occupation.

**ORDER:** The appeal is sustained. The petition is approved.