

L-1, L-2 and Blanket L Information

Description

The L-1 nonimmigrant visa category is for international companies with an existing branch, subsidiary or affiliate office located within the United States, wanting to transfer foreign employees to their operations in the United States. US employers cannot "outsource" L-1 employees to other companies. Companies may also open a new branch, subsidiary or affiliate office and still qualify, with certain additional requirements.

The foreign employees to be transferred to work in the United States office must qualify as executives, senior managers, or specialized knowledge personnel.

Basic Requirements Summary

A. Qualifying Relationship Between The Companies:

Only those companies which meet the definitions of a parent, branch, subsidiary or affiliate company qualify to petition for an L-1 visa. These definitions are very precise and require an analysis of both the foreign and U.S. ownership of the companies.

Generally the companies must prove that the requisite relationship exists, by qualifying in one of the following relationships: Either,

- a) Both the U.S. entity and the foreign company must be part of the same corporation, company or entity; or
- b) Either the foreign company or the U.S. company owns more than 50% of the other; or
- c) Both the U.S. company and the foreign company are owned (more than 50%) by a third company or by the same group or individuals; or
- d) Either the U.S. company or the foreign company are owned (50%) by two joint-ventures; or
- e) The transferring company must have "effective control" over the other company.

B. Employment Requirements:

In order to qualify, the petitioning employer must show:

- a) The employee worked abroad for the overseas company for a continuous period of one (1) year in the preceding three (3) year period; and
- b) The company for which the employee worked for abroad has a qualified relationship to the U.S. company; and
- c) The companies must be qualifying organizations, in that they are doing business in the United States and in one other country during the entire period of the transfer; and
- d) The employee to be transferred must have been employed abroad in an "executive", "managerial" or "specialized knowledge" position; and
- e) The employee must be coming to the U.S. company to fill the capacity of either an executive, manager or employee with specialized knowledge; and
- f) The employee must be qualified for the position by virtue of his/her prior education and experience; and
- g) The employee must intend to depart the U.S. upon completion of his/her authorized stay (including extensions), but may also pursue permanent residency at the same time.

For L-1 petitions involving new offices (open for less than one year), the petitioning employer (company) must also demonstrate that the U.S. company has a suitable place to do business and that the employer has the ability to pay the employee(s) during the term of the visa.

A **manager** is defined as a person who has all 4 of the following characteristics:

- The alien manages the organization or a department or function of the organization.
- The alien supervises and controls the work of other supervisory, professional or managerial employees or manages an essential function of the organization.
- The alien has the authority to hire and fire those persons supervised. If none are supervised, the manager must work at a senior level within the organization or as to a function managed.
- The alien has the authority to make decisions concerning the day-to-day operations of the portion of the organization which he or she manages.

A first-line supervisor is not normally considered a manager unless the employees supervised are professionals. The word "professional" here means a worker holding a university degree.

An **executive** is defined as a person who has all four of the following characteristics:

- The alien directs the management of the organization or a major component of it.
- The alien sets the goals or policies of the organization or a component of it.
- The alien has extensive discretionary decision-making authority.
- The alien receives only general supervision or direction from higher level executives, a board of directors or the stockholders of the organization.

A person with **specialized knowledge** is defined as:

An individual that has special knowledge of the petitioning organization's product, service, research, equipment, techniques, management, or other interests and its application in international markets, or an advanced level of knowledge or expertise in the organization's processes and procedures.

Validity Term

The L-1 visa is available for an initial period of 3 years for existing branch, subsidiary or affiliates offices of the international parent company, or an initial period of 1 year for new offices. Extensions of stay are available for up to a maximum stay of 7 years for executives and managers and up to 5 years for individuals with specialized knowledge.

Green Card eligibility

Individuals with an L-1 visa may also be eligible for a green card through employment. Individuals on an L-1A (Executives and senior managers) have the benefit of being able to obtain the green card without going through the rigorous procedures of Labor Certification (the first of 3 steps to Permanent Residency).

L-2

Description

Spouses and minor children of L-1 visa holders may accompany the L-1 holder to the US and are eligible for the L-2 visa.

Basic Requirements Summary

Family members of the L-1 intra-company transferee who are admitted with the alien receive the L-2 category and spouses will be eligible for employment in the United States upon approval by the CIS.

Validity Term

L-2 visas are valid for the term L-1 holder remains in a valid status.

Blanket L-1 Visas

Special Privileges for Large Companies or Companies requiring numerous transfers

"Blanket" L-1 status enables qualified U.S. companies to transfer employees more easily. Instead of applying individually for each transferee with the CIS, the company itself receives a general "blanket" approval for transferring employees, thus eliminating some of the time and cost in each individual case. The term of a company's blanket L-1 status is indefinite, once eligible for such status. If a non-U.S. company has more than one U.S. branch, subsidiary or affiliate, it need obtain only one blanket L-1 petition for all of its related American entities. Once the blanket L-1 petition is approved, key employees make their applications for individual visas under the blanket petition directly at the Consulate.

It is the company itself and not the individual employee that qualifies for this program. The benefits when a company obtains blanket L-1 status are numerous. Once the company receives a blanket L-1 approval, it may easily bring key employees into the U.S. as needed, bypassing the CIS individual petition. In addition, the company does not need to continue to prove the qualifying relationship for each individual brought in under the blanket petition. Further, once the key employees arrive in the U.S. they can easily be transferred to other companies named in the blanket approval without the need to file another petition as long as they are performing the same job duties.

Initially, a blanket L-1 petition can be approved for only 3 years. However, if the company continues to qualify, it can obtain an indefinite renewal. L-1 visas are available under the blanket program to executives and managers of the blanket L-1 company as well as those employees considered to be specialized knowledge professionals. The definitions for manager and executives wanting blanket L-1 visas are the same as for those who apply for individual L-1 visas. However, this specialized knowledge category differs from the one for individual L-1 applicants in that additionally they must be considered professionals.

If a petitioning US company meets the following requirements, it may obtain a blanket L-1 petition:

- The petitioning US company must be a branch, subsidiary or affiliate of a foreign company (joint venture partnerships do not qualify for blanket L-1 status purposes.)
- Both the petitioning US company and its related non-US company must be engaged in actual trade or rendering of services.
- The petitioning US company must have been engaged in business for at least 1 year.
- The petitioning US company must have a total of at least three branches, subsidiaries or affiliates, although all three need not be located in the US.
- The petitioning US company and any related US companies must:
 - have obtained L-1 visas for at least 10 employees during the past 12 months or
 - have combined annual sales of at least \$25 million, or
 - have a total of at least 1,000 employees working in the U.S.