

INTRACOMPANY TRANSFER (L-1)

The L-1 nonimmigrant classification enables a U.S. employer to transfer an executive, manager or "specialized knowledge" employee from one of its affiliated foreign offices to one of its offices in the United States. This classification also enables a foreign company, which does not yet have an affiliated U.S. office to send an executive or manager to the United States with the purpose of establishing one.

Only those companies that exactly meet the USCIS definitions of a parent, branch, subsidiary or affiliate qualify to petition for an L-1 intra-company transferee visa.

An intracompany transferee is a person who worked for a company abroad in an executive (L-1A), managerial (L-1A), or "specialized- knowledge" (L-1B) capacity (USCIS has specific definitions for each of these terms) for at least one continuous year within the three years prior to coming to the U.S. and is coming to the U.S. to work for a related (parent, subsidiary, affiliate, or branch) company in one of those three types of positions. The maximum stay is seven years for managers and executives and five years for specialized-knowledge employees.

As noted above, there are two options: The L1A is reserved for managerial or executive intracompany transferees, while the L1B is reserved for "specialized-knowledge" intracompany transferees.

Managers actively manage the organization, or a part thereof, or they manage a "function." Managers either oversee the work of other supervisors, managers, or professionals, OR they manage essential functions of the organization. They have discretion over day-to-day operations.

Executives are responsible for directing the management of the organization or of a major component or function. They set policies and goals and have broad latitude to make important business decisions. They operate with only minimal supervision.

Specialized-knowledge employees have a detailed understanding of the company's products / services and the international markets for those products / services, OR they have advanced knowledge of company processes and procedures. It must be knowledge that can be obtained only through experience with that employer, such as experience with proprietary software or methodologies unique to the company, which is also important to the competitiveness of the company.



INTRACOMPANY TRANSFER (L-1) CONT.

NEW OFFICE L-1 VISAS

The regulations make special provision for adjudication of L-1 petitions on behalf of overseas organizations that are just starting to do business in the United States. Additional evidence is required with the initial L petition under these circumstances. New office L petitions are approved for an initial period of one year. At the conclusion of that year, the petitioner must file an extension request documenting that the qualifying organization still exists and has been doing business in the United States.

L-1A TO EB-1 (GREEN CARD)

Of special importance: Individuals working in the U.S. with an L-1A visa may seek to become lawful permanent residents (Green Card holders) via the Employment-Based, first preference (EB-1) immigrant visa. This category is for multinational managers or executives who have been employed outside of the United States under L-1A status for more than 12 months.

PERIOD OF STAY

Qualified employees entering the United States to establish a new office will be allowed a maximum initial stay of one year. All other qualified employees will be allowed a maximum initial stay of three years. For all L-1A employees, requests for extension of stay may be granted in increments of up to an additional two years, until the employee has reached the maximum limit of seven years. For all L-1B employees, requests for extension of stay may be granted in increments of up to an additional two years, until the employee has reached the maximum limit of five years.

PROCESS FOR L-1

An L-1 visa petition (Form I-129 and I-129L Supplement) must be filed, along with relevant evidence and the filing fee. Upon approval of the petition, a Form I-797 Notice of Action is sent by USCIS to the petitioner or counsel. The petitioner or counsel must then submit the I-797 to the consulate to apply for a visa, along with the DS-160 and any other documents required by the consulate.

By statute, L-1 petitions are supposed to be decided within 30 days. A realistic timeframe, from start to finish, is 2 months (unless premium processing is selected).

The principal L-1's spouse and children under age 21 may be issued dependent (L-2) visas. Spouses in L-2 status can obtain work authorization by filing an I-765 Application for Employment Authorization with a USCIS service center, along with a copy of the applicant's I-94, a copy of the marriage certificate, the filing fee, and photos.

