

## **General Information of L-A Visa**

The L-1 visa is a temporary non-immigrant visa which allows companies to relocate foreign qualified employees to its U.S. subsidiary or parent company. Since it's a temporary non-immigrant visa, it is valid for a relatively short amount of time, from one year the initial application, to the maximum stay of seven years (with extension).

The qualified employee must have worked for a subsidiary, parent, affiliate or branch office of the company for at least one year out of the last three years. The U.S. company must be a parent company, child company, or sister company to the foreign company. The L-1 visa may also include non-profit, religious, or charitable organizations.

When a multi-national corporation wants to expand the business to other cities or foreign countries, hiring a professional employees with specialty skills and knowledge in a newly setup subsidiary is essential for the success of the new entity. Such company may have policies of international rotation of managerial level personnel to assure that all key personnel within a company have equal opportunity for career advancement when an appropriate position becomes open in any location around the world. Cross-fertilization of ideas among high level employees and executives enhances a company's competitiveness. This exchange often results in innovation essential to a company's reputation and development.

The L-1 visa is also a good way for small or start-up overseas companies to expand their business and services to the United States. This is advantageous to smaller companies because it allows for the transfer of a highly proficient manager or executive who has direct knowledge of operations, allowing the setup of a new branch in compliance with the goals and objectives of the company's main office. However, since the USCIS will scrutinize L visa petitions filed by lesser-known companies more closely, professional consultation with an experienced immigration lawyer is strongly recommended for these types of small businesses.

USCIS also provide a special set of procedure to be used by large multi-national organizations that frequently need to apply the L-1 visa for their employees. This is called the "L-1 Blanket Petition Program". Under this program, the approved company need only receive one approval from the USCIS to transfer a certain number managerial, executive and professional employees.

L-2 visas are issued to the L-1 holder's spouse and unmarried children under twenty-one years of age who wish to accompany them to the United States. Holders of L-2 visas are considered to be the dependent of L-1 holders, as their duration of valid stay is the same as that of the L-1 holder. L-2 spouses are permitted to attend school and/or work either part time or full time legally on their status.

## **General Requirements for L-a Visa**

1. The employee must have worked abroad for the overseas company for a continuous period of one year during the preceding three years before admission to the United States.
2. The company must have a qualifying relationship with a foreign company, such as a parent company, branch, subsidiary, or affiliate.
3. The company must also be, or will be, doing business as an employer in the United States and in at least one other country directly or through a qualifying organization for the duration of the beneficiary's stay in the United States as an L-1.

4. The employee must have been employed abroad in an executive or managerial position (L-1A), or specialty occupation with special skills or knowledge (L-1B).
5. The employee must be coming to the U.S. company to work in an executive or managerial position. Or the same specialty position which needs special skills and knowledge.
6. The employee must be qualified for the position by virtue of his or her prior education and experience.
7. The L-1 visa holder must intend to depart the United States upon completion of his or her authorized stay.

### **Benefits of the L-1 Visa**

The L non-immigrant visa category is one of the most useful tools available to international companies who need to bring qualified foreign employees to the United States.

- **Compare to E visa**

An E is another type of employment based non-immigrant visa that can also be used by small business owners or small companies to bring owners or employees to the United States. However, the E visa category is designed solely treaty traders and treaty investors who come to the United States to engage in trade between the U.S. and the country in which they are employed. An E visa is available only when the following three conditions are met:

1. A treaty must exist between the United States and the foreign country under whose treaty the E status is sought;
2. Majority ownership or control of the investing or trading company must be held by nationals of the foreign country under whose treaty the E status is sought;
3. Each employee or principal of the company who is seeking the E status pursuant to the treaty must hold citizenship of the country under whose treaty the status is sought.

At the present time, there are many countries that do not have such treaties with the United States. For those countries, an E visa is simply not available and an L visa might be a good alternative.

- **Compare to B visa**

A B-1 Temporary Business Visitor visa is used by alien visitors coming to the United States for short business trips on behalf of an overseas employer. Generally speaking, a B-1 visa can be used for some business activities such as the opening of bank accounts, acts of incorporation, signing of contracts. A B-1 visa may be particularly helpful during the early stages of setting up a new U.S. business.

However, the B-1 visa is a temporary business visitor visa, the visa holder cannot legally work in the United States. This means that when business activity has

advanced to such a degree that it constitutes local employment, the B-1 holder will be at risk of violating their status.

- **Compare to H visa**

An H-1B visa is very similar to an L visa in many aspects, such as the limitation on the accumulated authorized period of stay and petition procedure. The major difference, however, is that the employment privilege granted to an L visa holder, in theory, cannot be substituted by a U.S. worker. Under an H-1B visa, the employer must guarantee that their specialized alien worker is receiving the prevailing wage for their position in the geographic area they are working in. An L visa holder is not required to be paid the prevailing wage for the position he or she assumes. Furthermore, the H-1B visa is subject to an annual quota and requires a bachelor's degree. In contrast, one does not need a degree for the L visa, nor is the L visa subject to an annual quota.

- **EB-1C considerations**

A specific employment-based immigrant preference category (EB-1C) was created for managers and executives who meet the L-1 standards and are interested in becoming lawful permanent residents. These aliens are considered "priority workers" in the first preference, which is allotted 40,000 annual immigrant visas. Although L-1A status is not a prerequisite for immigrant benefits in this category, the immigrant petitioner's prior L-1A status provides a stronger case for the EB-1C immigrant petition.

### **Process for obtaining an L-1 visa**

1. Prepare for the application documentation

The application documentation are consisted of three parts: application forms (Form I-129 with L supplement), supporting letter from the U.S. employer, verifying that the alien will be working for them in the United States in the necessary capacity, and other documents as evidence supporting the petition.

2. Submit the application documentation

Collect and send all documentation to one of the USCIS service center which has the jurisdiction over the intended work location.

3. Apply for visa

USCIS will mail the Approval Notice to the U.S. employer (petitioner). The alien worker can get the Approval Notice from his/her employer. With the Approval Notice and other related documentation, the alien worker can apply for visa from the consulate oversea. Without a valid visa the alien worker will not be allowed to enter the U.S. only with the Approval Notice.

### **Obtaining/Maintaining L status**

For L-1 Visa holders, like any other visa holder, requests for admission to the United States are made at the border upon arrival at a U.S. port of entry. The immigration officer has the authority to deny admission to a foreign national even if a visa has been issued. However, such denial rarely occurs in the case of L-1 visa holders. The alien seeking admission must have a valid passport with an L visa stamp. The alien should also have the approval notice of the L-1 petition, a copy of the petition, and supporting letter with them at the entry port.

If the immigration officer decides to admit the visa holder, the officer will place a stamp in the passport noting the admission and the period of authorized stay. The immigration officer will also annotate Form I-94, or an Arrival and Departure Record. After an I-94 has been issued, the L visa holder obtains L Status in the United States for the authorized period.

In order to maintain valid L status during their stay in the United States, the alien may not engage in unlawful employment. This means that alien must work for the employer that petitioned for their L status and in the capacity specified in the petition letter and cannot work for another employer. For L-1A this means in a managerial or executive capacity and for L-1B this means in a specialized knowledge capacity. An alien in L status may attend an academic institution without explicit approval from the USCIS if such enrollment is limited and incidental to the authorized employment.

If an alien in L status would like to stay in the United States longer than what their authorized stay allows at that time, they need to file an extension request with the USCIS before their authorized stay expires. Failure to do so will jeopardize their stay and future re-entry into the United States.

### **Travelling outside of the U.S. for an L-1 visa holder**

If an L-1 visa holder wants to travel outside of the U.S. temporarily, but his status is about to expire, it is risky for him for him to re-enter the country without a valid visa/status. In this kind of situation, there are some special policies for the L visa holder let him not have to leave the U.S. in order to obtain a newly issued L visa from the State Department. It requires 1) the L visa holder has a valid status in the U.S.; 2) his passport has at least 6 months left before expiration; 3) the original L visa is going to expire within 60 days, or the original L visa expired in the past 12 months.

### **From L-1A status to Green Card**

A specific employment-based immigrant preference category (EB-1C) was created for managers and executives who meet the L-1 standards and are interested in becoming lawful permanent residents. The EB-1C immigrant petition requirements are almost identical to those of the L-1A non-immigrant petition requirements. The first preference category is allotted 40,000 annual visas. Although L-1 status is not a prerequisite for immigrant benefits in this category, it provides a stronger case when the beneficiary was in an L visa category previously. The most notable advantage of seeking a green card through the EB-1 category is that labor certification is not necessary for the petitioner.

For an alien in L-1B status, he/she may apply for a Green Card as a skilled worker, which requires an approved labor certification. If circumstances allow, he/she may apply under the EB-1(a), EB-1(b), or NIW categories, for which a labor certification is not required.

### **Documentation needed for L-1 petition**

- **US company needs to provide:**
  - a. Article of incorporation or association
  - b. Application for EIN (Form SS-4)
  - c. Stock certificates
  - d. Lease of business location
  - e. Bank statement or wire transfer evidencing initial investment
  - f. Audited accounting reports (balance sheet, profit/loss statements, cash flow reports)
  - g. Corporate income tax return Form 1120 (if any)
  - h. Employer's Quarterly Report Form 941 (if any)
  - i. Description of company business
  - j. Recent purchase agreements, sales contracts, bills of lading, invoices, etc
  - k. Bank statement
  - l. Company letterhead
  - m. Company structure and department functions, plan of employing new employees
  - n. Pictures of main office (interior and exterior)
  - o. The business plan of the US company requires: Market analysis, personnel structure (hiring number with the next five years), profit expectation (estimate income, the source of income, estimate cost), detailed introduction of your products, seasonal plan for the next two years and annual plan for the next five years after the establishment of the US subsidiary (including timing, content, person in charge)
  
- **Foreign company needs to provide:**
  - a. Business license, Tax registration
  - b. Article of incorporation
  - c. Income tax filings for the past three years
  - d. Audited accounting reports (balance sheet, profit/loss statements, cash flow reports)

- e. Company structure and department functions, detailed description of the transferee's job duties and title, total number of employees
- f. Company brochure or product introduction
- g. Documents of business transactions (contracts, bills of lading, letters of credit)
- h. Bank statements, or transactional records
- i. Company letterhead with company logo, name, and address (several sheets)
- j. Pictures of company's main office, factories, or buildings (Disregard if already included in company brochure)
- k. Proof of the transferee has been working abroad for the overseas company for a continuous period of one year during the preceding three years before admission to the United States (Paystubs, tax return, contracts signed by the transferee, or company letter from the parent company)

- **The transferee needs to provide:**

- a. CV
- b. Degree diploma of the transferee, honor, award, certificate and introduction of previous work experience, achievement
- c. Proof of employment (transfer) from the US company
- d. Board decision regarding the transfer
- e. Other documentation which can prove the transferee's capacity to be a manager/executive position
- f. Passport, visa, I-94, birth certificate

- **Documents need for L-2**

- a. Non-immigration application Form DS-156
- b. If apply from the foreign Consulates in the US with the L-1 visa holder, you need to provide the original or copy of approval notice of L-1 visa
- c. If the L-1 visa holder is already in the US under a valid L-1 status before the applicant submit the documents, the applicant needs to provide the L-1 holder's I-94 to prove his valid L-1 status
- d. Affidavit of financial support from L-1 visa holder or other people
- e. Marriage certificate (spouse)
- f. Birth certificate (children)

- g. One 2" passport picture
- h. Application fee