



## L-1 Intra-Company Transfer Visas

Intra-company transfer visas are available to start-up, small and large companies that wish to transfer a “manager”, “executive” or an employee with “specialized knowledge” to a U.S. company that has a “qualifying relationship” with a foreign company. Such transfers can be accomplished for both employees *and owners* of a company.

### 1.1 WHO QUALIFIES FOR AN L-1 VISA?

#### 1.1.1 THE U.S. AND FOREIGN COMPANIES

It must first be demonstrated that a “qualifying relationship” exists between the foreign company for whom the foreign national worked, and the U.S. company to which the foreign national is being transferred. Specifically, it must be shown that the U.S. company is a wholly-owned subsidiary, branch or affiliate of a foreign company.

These terms are defined as follows:

- A “branch” is an operating division or office of the same organization housed in a different location.
- An “affiliate” is one of two subsidiaries which are owned or controlled by the same parent or individual, or by a group of individuals so long as each individual owns and controls approximately the same share or percentage of each entity. An affiliate also includes certain international accounting firms that market accounting services under an internationally recognized name.
- A “subsidiary” is a company which, either directly or indirectly, is at least 50% owned by another entity; is 50% owned as part of a 50-50 joint venture with equal control and veto power; or is less than 50% owned, but with “in fact” control by the other entity.

#### 1.1.2 THE FOREIGN NATIONAL

To qualify for an L-1 visa, the foreign national being transferred into the United States must have worked for the overseas employer as either a “manager”, “executive” or as a person with “specialized knowledge” of the employer’s product or process. Each candidate must have worked in such a position for at least one in the last three years. They must also be transferring into the United States to accept an equivalent position in a U.S. company. These types of positions are defined as follows:

A “manager” is an employee who:

- Manages the organization, or a department, subdivision, function or component of the organization;
- Exercises supervisory control over the work of other supervisory, professional, or managers, or manages an essential function within the organization, or a department or subdivision of the organization;
- Has the authority to hire or fire employees, or recommend other personnel actions (such as promotion and leave authorization) if another employee or employees are directly supervised; or, if no other employee is directly supervised, functions at a senior level within the organizational hierarchy or with respect to the function managed; and

- Exercises discretion over the day-to-day operations of the activity or function for which the employee has authority. A first-line supervisor is not considered to be acting a managerial capacity merely by virtue of the supervisor's supervisory duties unless the employee's supervised are professionals.

An "executive" is an employee who:

- Directs the management of the organization or a major component or function of the organization;
- Establishes the goals and policies of the organization, component or function;
- Exercises wide latitude in discretionary decision-making; and
- Receives only general supervision or direction from higher level executives, the Board of Directors, or stockholders of the organization.

A "specialized knowledge" employee is an employee who:

- Possesses a special knowledge about the sponsoring companies' "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."

## 1.2 BLANKET L-1 PETITIONS

Large multinational companies can simplify the L-1 process significantly if they qualify for the L-1 blanket program. In order to qualify for the L-1 blanket program, a qualifying organization must show that:

- The petitioning company and all qualifying organizations are engaged in commercial trade or services;
- The petitioning company has been doing business through its U.S. office for least one year;
- The petitioning company has three or more domestic and foreign branches, subsidiaries, or affiliates; and
  - The petitioning company and its qualifying companies have received at least ten L-1 approvals during the previous twelve months; or
  - The U.S. subsidiaries or affiliates have a combined annual sales of at least \$25 million; or
  - The U.S. subsidiaries or affiliates have a U.S. work force of at least 1,000 employees.

The main benefit of an L-1 blanket program is that once the qualifying companies are approved, the first step in obtaining an L-1 visa is eliminated for all future petitions under the blanket program. This means that, with a blanket L-1 approval, there is no need to file anything with the USCIS before seeking an L-1 visa at the nearest U.S. Embassy or consulate. Needless to say, this saves an employer a significant amount of time in transferring employees into the United States.

A blanket petition may be approved for an initial period of three years, but may be extended indefinitely if the qualifying organization complies with the applicable regulations.