



L “Intracompany” Visas

The L nonimmigrant visa category facilitates the transfer of executive, managerial, and key technical personnel of multinational businesses for long-term temporary U.S. assignments.

Who is Eligible?

For all L visas, the following eligibility requirements apply:

- Employment abroad as a full-time executive, manager or specialized knowledge employee for at least one continuous year during the past three years. [*Presence in the U.S. will not interrupt the 1-year employment requirement. However, time spent in the U.S. likewise does not satisfy the 1-year requirement. For example, a manager who has worked for an employer abroad for eight months could be sent to the United States as a B-1 Business Visitor for three months. After returning to the employer abroad for at least four more months, he or she would become eligible to apply for an L-1 visa.*]
- Proposed transfer to a U.S. parent, affiliate or subsidiary of the foreign employer to serve as a manager, executive or specialized knowledge employee.

Definitions:

- An **executive** directs the management of the company, establishing company goals and policies, exercising latitude in decision-making, and receiving supervision from higher-level executives or the board of directors. (Executives and managers must spend 50% or more of their time performing executive or managerial duties, rather than directing production or service. For a new U.S. office, however, they may engage in direct production or service — but only for the first year of operation.)
- A **manager** directs a department or subdivision of the company, supervising the work of other professionals or managers. Alternatively, a manager may supervise an essential function/component of the company, without supervision of other employees. *This “functional” manager must direct the function, exercise authority over daily operations, and report to a senior level officer in order to qualify.* The term manager excludes a first-line supervisor, unless supervising professional employees. Managers have authority to hire, fire, promote and recommend other personnel actions.
- A **specialized knowledge employee** utilizes advanced knowledge regarding a company process or procedure. Alternatively, he or she possesses

advanced knowledge central to the company's products or services so as to enhance competitiveness in international markets. (This includes, for example, knowledge of company equipment, products, services, research, technologies or management.) Highly skilled employees possessing non-proprietary technical knowledge do not qualify.

Benefits

- The employee can be admitted for an initial period of three years (except for new office 1-year limit situations).
- Two-year incremental extensions may be obtained to a maximum consecutive 7 years for executives and managers and 5 years for specialized knowledge employees. (The 7 and 5 year caps do not apply to those without continuous residence in the U.S., whose employment is seasonal, intermittent, or totals six months or less per year. They likewise do not apply to those who reside abroad and commute to the U.S. for part-time employment.)
- Unlike the H visa, the L visa is not subject to an annual quota or numerical limit.
- Unlike the H visa, payment of the "prevailing wage" for the job is not required.
- A short-cut procedure to obtain permanent residence ("green card" status) is available to L visa managers and executives, allowing them to avoid the lengthy labor certification process.
- The spouse and dependent children of the principal alien will be eligible for L-2 visas, and the spouse can apply for work authorization.

Company Blanket Approval

Blanket petition approval is available to a company (and its parent, subsidiaries or affiliates) if (a) the U.S. office has been in

business for at least 1 year and (b) the company has 3 or more domestic or foreign branches, subsidiaries or affiliates and (c) the related companies have (1) a U.S. work force of 1000 employees or more or (2) U.S. combined sales of \$25 million or more or (3) 10 or more approved L petitions for managers, executives or specialized professionals in the previous 12 months. The blanket approval saves a great deal of time, as the ordinary immigration services processing and approval procedure is skipped altogether. (Oddly, the blanket L shortcut is not available to specialized knowledge employees who are not "professionals." They must undergo conventional processing through the U.S. Citizenship and Immigration Services.)

Points to Consider

- Foreign employees who cannot satisfy the 1-year requirement should consider the E and H visa options, in that order.
- Managers and executives should avoid the seemingly more exotic "specialized knowledge" classification and its adverse long-term consequences.
- Employees of a foreign company that becomes acquired may count their pre-acquisition employment toward the 1-year requirement.
- For a flowchart showing the L visa processing steps, please contact afmertens@sgrlaw.com.

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