

L-1 Visas

Facts At-a-Glance

Created in 1970, the L-1 visa serves as an essential vehicle for multinational companies to transfer managers, executives, and employees with specialized knowledge of the company and its operations for temporary assignments in the United States.

- The L-1 visa category allows the transfer of employees with specific experience and skills from a company abroad to the same company, parent, affiliate or subsidiary within the United States.
- L-1 professionals are assigned to the United States to work on special projects, to transfer skills and knowledge of corporate operations, to get a U.S. operational perspective, or to otherwise facilitate the global operations of multinational companies.
- The L-1 visa provides companies with the flexibility to maximize their worldwide human resources to maintain a competitive advantage. They are not used to fill open positions in the United States.
- Foreign-based companies with operations in the United States also use the L-1 visa to bring their already-established employees to the U.S. in order to establish and expand business operations here.
- The L-1 visa is critical to maintaining strong foreign investment in the U.S. – remarks by U.S. Secretary of Labor Elaine L. Chao in February 2004 reflect that foreign companies employ about 6.5 million workers in the United States.
- Multinational companies utilize similar visas to send Americans on assignment abroad. Without the ability to transfer employees around the globe on assignment, international trade and investment would be severely hampered.

Qualifications for the L-1 visa program are specific.

- Executives, managers and key personnel with specialized knowledge of the company's products, services and procedures are the only employees who qualify for an L-1 visa.

- The L visa holders must have been employed in an executive, managerial or specialized knowledge capacity with the company in an overseas location for at least one continuous year out of the past three years. Most Ls return home when their assignment ends.
- The affiliation between the U.S. company requesting the L-1 visa and the entity from which the foreign national comes must meet specific legal tests, such as having the same ownership, having a parent/subsidiary relationship or being a joint venture. Not all multinational relationships qualify for L visas.
- In 2004 Congress enacted a \$500 anti-fraud fee on L-1 petitions to fund the prevention and detection of L visa fraud.

L-1 visa usage is minimal.

- According to the most recent available data from the Department of State, 65,458 principal L visas were issued in FY 2005, which comprised just over .01% of the approximately 5.3 million visas the Department of State issued that year.
- That same year 57,523 L visas were issued to the spouses and children of L visa principals.
- Total L Visa issuance in FY 2005 was only .02% of all visas issued that fiscal year.

There are two types of L visas, the L-1A for *executives and managers* and the L-1B for those with *specialized knowledge*.

L-1A

- ***Executive.*** To obtain an L-1A as an *executive*, a foreign national must manage an organization or a major component or function of an organization. An *executive* must exercise discretionary decision-making powers with only general supervision, and may have a supervisory function.
- ***Manager.*** A *manager* must have the primary duty of directing an organization, or area of an organization, and supervision or control of the work of others. A *manager* has the authority to hire and fire and has other day-to-day personnel duties.

L-1B

- **Specialized Knowledge.** The L-1B visa requires an individual to have specialized

knowledge of the company, its product or service, and its application in international markets or to have an advanced level of knowledge of processes and procedures of the company.

- In 2004 changes in the law were enacted governing the placement of L-1B workers at third party sites. In such cases, employers must demonstrate that they will continue to exercise control over those employees and that any labor for hire contract with a third party is only in connection with the foreign national's specialized knowledge of the petitioner's products or services.

The blanket L visa is a valuable tool for multinational companies operating in the fast-paced global economy.

- Companies that know they will need to transfer a number of international employees on short notice can apply to the Department of Homeland Security for a "blanket L" visa. Companies can qualify for a blanket L if they meet one of the following criteria: U.S. annual sales of at least \$25 million, 10 L visa approvals in the prior year or U.S. workforce of at least 1,000 employees.
- This pre-certification allows the company to have employees apply directly to the U.S. consulate for a visa rather than filing an application for each individual with DHS. Employees undergo the same scrutiny of their qualifications and background as if their application went through DHS, but in a much shorter timeframe.
- Companies are required to maintain records of their blanket L usage and to report this information to DHS at regular intervals.