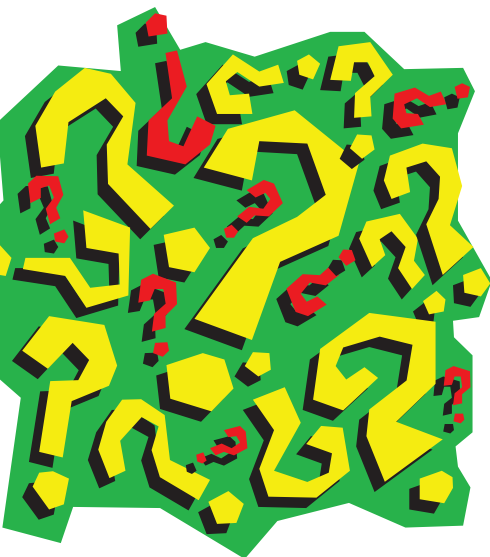


Legal Corner - Intra-company Transferees

By: Neelofer Syed, Esq.

A number of people considering various options for business related visas inquire about the L-1 visas, and that is the topic for this article. Now that we have tackled the B1/B2 Visa procedures and requirements, here are key factors for the L-1 visa.



There can be several nuances which an Attorney or the Applicant deals with when putting together the submission for an L-1 visa. This article, however, is only aimed at covering the main guidelines so that a number of common misconceptions as well as frequently asked questions can be addressed.

The L-1 intra company transferee category is one of the most useful categories

available to international companies seeking to transfer high-level and essential employees from operations outside the U.S. to a related operation in the U.S. The services provided must be to a "related" and "qualifying" entity in the U.S. L-1 status is available to persons who have worked abroad for the related entity for 365 days within the three years preceding the filing of the L-1 petition in an executive, managerial, or specialized knowledge capacity. The foreign national must be coming temporarily to the U.S. to work in the same capacity for a qualifying, related business entity. We will now deal with few key concepts/requirements pertaining to the L-1 visa.

1. Qualifying Position for L-1

The employee to be transferred must currently qualify, have held an executive, managerial or specialized knowledge position with the foreign entity and be coming to work in a comparable capacity for the U.S. entity.

- A. **Managers and Executives (L-1A):** Managers and executives are permitted to remain in the U.S. for seven years, and have a fast route to Legal Permanent Resident (LPR) status if desired.
- B. **Specialized Knowledge (L-1B):** Specialized knowledge personnel's stay in the U.S. is limited to five years and they do not qualify for the fast track to LPR status. Individuals qualify for this category if they have a special knowledge of the company's product, or have an advanced level of knowledge of the processes and procedures of the company.

2. Qualifying Relationship between U.S. Company and Foreign Affiliate

The statute and regulations define "qualifying organization" as one that is doing business in the U.S. and one other country during the entire period of the transfer. The transferring company must continue to do business abroad during the entire period of the foreign

national's U.S. stay. "Doing business" is defined as the "regular, systematic, and continuous provision of goods and/or services."

The general rule for determining if the correct "relationship" exists between the foreign and U.S. companies is that one company that is party to the transfer must have "effective control" of the other party, or both must be "effectively controlled" by a third company, individual, or group of individual shareholders. Examples of effective control include:

- The U.S. and foreign entities are branch offices of the same corporation;
- One entity owns 50% or more of the other entity;
- 50% or more of both the U.S. and foreign entities is owned by a third company or by the same individual; or
- Both entities are owned by the same group of individuals in the same percentages.

3. One year of foreign employment required

The L-1 beneficiary must have been employed by the related entity outside the U.S. for at least 365 days year within the three years preceding the admission to the United States.

- A. **Employment:** The beneficiary can meet the definition of employment regardless of whether or not the beneficiary received a salary from the foreign entity. It is the power of control of the employee's activity, rather than the payment of a salary, that establishes the employer-employee relationship. However, if the beneficiary was "outsourced" by another agency, then the requisite employer-employee relationship may not exist. Also, the employment had to be full-time, rather than part-time.
- B. **For 365 days:** While trips to the U.S. do not break the continuity of the employment, they do not count toward the 365 days of required employment. For example, if the beneficiary spent one month in the United States, s/he would need to show other months of employment abroad since the one month in the United States does not count toward accrual of the requisite days of foreign employment.
- C. **During the three year period preceding admission to the U.S.** The foreign national's 365 days of employment with the related foreign entity must have occurred prior to the filing of the L-1 petition.

4. Owners as L-1A Transferees

The transfer of a majority or substantial shareholder under the L-1A classification is permissible.

5. Type and Size of Companies

There is no requirement that the related companies be in the same business. Additionally, there are no size limitation or requirements that the entities be generating a certain amount of income or profit.

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6. Limitation on the Period of Authorized Stay

There is a 7-year maximum for managers and executives and a 5-year maximum for specialized knowledge.

7. Availability of Premium Processing

CIS will take action on an L petition within 15 days of receipt upon the filing of a Request for Premium Processing (Form I-907) and payment of the Premium Processing fee of \$1,000. Form I-907 may be filed with the petition or separately at a later time while the petition is pending.

8. L-1 Blanket Petitions

Normally, the U.S. employer files the petition with CIS, obtains an

approval, and then the foreign national applies at the U.S. Consulate for an L-1 visa based upon the approved petition. Large companies with U.S. subsidiaries or affiliates and combined annual sales of at least \$24 million or a U.S. work force of at least 1,000 employees, or companies that have previously obtained approval for at least ten "L" managers, executives, or specialized knowledge professionals during the previous 12 months, may apply for blanket certification. If approved, the foreign nationals can go directly to a U.S. Consulate for visa issuance without obtaining prior CIS approval.

Hopefully this article will help a lot of readers needing a clearer understanding of the requirements for an L-1 visa.

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Flat Belly

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times a day to see the results.

Add MUFA to your diet- Studies have shown that a core group of healthy fats--monounsaturated fat known as

MUFAs can prove to be effective in shedding fat. Those good-for-you fats help protect you from chronic disease and, according to new research, can help you get a slim waistline. There are five major categories of MUFAs- oil, avocado, nuts and seeds, chocolates and olives. Eating one serving of any of these foods at every meal will help reduce accumulation of dangerous belly fat.

Include fat burning food in your diet

This includes bananas, apples, beans, citrus fruits, broccoli, grains and grain products, cabbage, melon, pasta, tomato, zucchini, pineapple, root vegetables and peppers.

Commit to your target

If you start a diet and exercise regime, make it for good. Eating healthy foods and exercising only until you hit your target weight will not result in long lasting happiness. Getting healthy is a lifestyle choice that needs to last.

Picture yourself

Stick a "before and now" picture of yourself on your refrigerator door or you can have a picture of someone who inspires you. This will help remind you of why you should stick with healthy foods, exercise and an overall healthier lifestyle.

Meal Replacements for Weight Control

For losing weight, we need to reduce the intake of the calories be-

low the daily activity needs. When we reduce the number of the calories, we draw from our fat stores to obtain energy. By replacing meals with specialized complete meal formula, we lose fat and weight.

Substituting meals for regular snacks can increase your meal frequency and control the weight, since the low-calorie meal replacements limit calorie intake. Meal replacements have become a popular way of helping many people successfully start losing weight. Meal replacements can be a good therapeutic approach to weight loss but only if, they are used in combination with lifestyle and diet education and professional support.

Have a positive attitude

Instead of focusing on the failure of your past habits, consider focusing on 30 minutes to a flat stomach. Set attainable goals. This means goals that you have control over. If you set a goal to lose five pounds in a week, which you may have no control over, you are setting yourself up for failure. Instead, set a goal to exercise 30 minutes a day five days a week. Along with that set a goal to stay within your calorie count. As you achieve these goals each week, your motivation will increase. Other tips include:

Measure DON'T weigh

Measure your waist and stomach before you start the weight loss program and continue to do so every six weeks since weight can fluctuate as fat gets replaced by water or muscle. A tape measure shows the inches melting off your midsection.

Dont shop when hungry

Never go food shopping when you are hungry or you will end up buying more fattening food. The best thing to do is to eat before you go food shopping and always have a grocery list. Only buy food that relates to your weekly diet program.

