

The **EB-1(3)** or multinational executive category of the immigration laws was created to allow the permanent transfer of executives and managers of companies located outside the United States to subsidiaries, affiliates, and branches in the United States. Persons eligible for this category are granted Permanent Residence and are not required to obtain a *Labor Certification (PERM)* before they can apply to become Permanent Residents of the United States. This means that multinational executives do not have to go through the expense, time, and uncertainty of the Labor Certification (PERM) process. The requirements are described below and are similar to the requirements for the *intra-company transferee (L-1A)* nonimmigrant category. This is a great category because it is possible to obtain employment authorization in a few months and Permanent Residence (Green Card) for the employee and his or her family in less than a year.

In addition to our years of experience with multinational executive petitions, because of our knowledge of transactional matters **Perez & Associates** can also help you create a corporate structure that will allow you to qualify for the multinational executive category. If, after reviewing the requirements set out below you determine that you want to take advantage of the **EB-1(3) multinational executive** category please request a **Case e-Valuation** or contact us to set up an office conference.

REQUIREMENTS

- 1. There must be an actively operating company in a foreign country.**
Proof: This requirement is established by providing copies of documents showing the active existence of the foreign company. These documents usually include copies of the original registration for the company, the most recent renewal of the registration, a letter from the foreign government confirming the active existence of the foreign company, copies of invoices from the foreign company, a copy of the foreign company's most recent financial statement, tax returns, letters of reference from customers, copies of advertisements and any other evidence tending to show that the foreign company actually exists. The foreign company must be actively involved in rendering services or producing goods for revenue. A duly registered company, if it is not doing any actual work, will not satisfy the L-1A requirements.
- 2. There must be an actively operating company in the U.S.**
Proof: This requirement is established by providing copies of documents showing the active existence of the U.S. company. These documents usually include copies of the original registration, the most recent renewal of the registration, copies of invoices, a copy of the most recent financial statement, tax returns, copies of advertisements and any other evidence tending to show that the company actually exists and is actively operating. For a new U.S. company, the only requirements are evidence of incorporation, evidence that the U.S. company has secured business premises, and evidence of wire transfers or other deposits used to open up the business.

3. The company in the United States must be an affiliate, branch, parent or subsidiary of the foreign company.

Any of the following ownership structures can be used to satisfy this requirement:

- The foreign company owns 50% or more of the U.S. company;
- The U.S. company owns 50% or more of the foreign company;
- The same person owns 50% or more of both the U.S. company and the foreign company; or
- The same persons own both companies in the same percentages.

Proof: Documentation evidencing the ownership of each company. These are usually stock certificates or their equivalent for both the foreign company and the U.S. company. Documentation relating to the U.S. company or branch will originate in the United States. These will be copies of the incorporation or registration documents, the stock certificates, and a copy of a lease or deed showing where the new business office is located.

4. The U.S. company must have secured business premises.

The business premises do not have to be large or fancy, but the business in the United States cannot be operated from a home address. As long as the office premises are adequate for the business they do not have to be fancy.

Proof: A lease of at least one year or evidence that business premises have been purchased.

5. The foreign national who is coming to the United States must have been employed in a managerial or executive capacity, or in a capacity requiring specialized knowledge, by the foreign company, outside the United States, for a at least one (1) year during the last three (3) years.

Proof: A letter from a director of the foreign company, letters from customers of the company confirming the position and length of time dealing with the person to be transferred to the U.S., a company tree showing where the person is on the tree, banking references and copies of receipts showing salary payments to the foreign national coming to the United States, a description of the person's duties with the foreign company, and a C.V.

6. The foreign national must be coming to the United States to work for the United States company in a managerial/executive capacity.

It must be shown that the business in the United States is large or complex enough to require the permanent transfer of a manager or executive to the United States. To determine if a business needs a manager or executive on a permanent basis Immigration will look at such things as the size of the business, the amount of sales or other business done by the business, the type of business, the nature of the work being done by the proposed manager or executive, the number of people the manager or executive will supervise, and the number of employees employed by the business.

FAMILY MEMBERS

The spouse and unmarried children under the age of twenty-one (21) of the manager and executive
Proof: Marriage licenses and birth certificates.

PLEASE NOTE:

DOCUMENTS NOT IN THE ENGLISH LANGUAGE MUST BE ACCOMPANIED BY A COMPLETE ENGLISH TRANSLATION. WE DO NOT REQUIRE ANY ORIGINAL DOCUMENTS. COPIES, AS LONG AS THEY CAN BE CLEARLY READ, ARE SUFFICIENT.