

OVERVIEW OF INTRACOMPANY TRANSFEREE REQUIREMENTS

by

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The “L” or Intracompany Transferee nonimmigrant category was created to allow foreign companies to transfer executive/managerial personnel (**L-1A**), or employees with specialized knowledge (**L-2A**), to subsidiaries, affiliates, or branches in the United States. Although it does not initially grant residency, permanent residency (a green card) is possible for executives or managers once it can be shown that the U.S. entity is sufficiently developed to justify the permanent need for an executive or manager in the U.S. Persons who fall under the specialized knowledge category may not apply for residency.

If, after reviewing the requirements set out below you determine that you want to take advantage of the “L” 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:**
 - a. **The foreign company owns 50% or more of the U.S. company;**
 - b. **The U.S. company owns 50% or more of the foreign company;**
 - c. **The same person owns 50% or more of both the U.S. company and the foreign company; or**
 - d. **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.

3. **The U.S. company must have secured business premises. These do not have to be large or fancy, but you will not be permitted to start your business from your home address. As long as the office premises are adequate for the business they do not have to be fancy.**

Proof: A lease or evidence that premises have been purchased.

4. **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.

5. **The foreign national must be coming to the United States to work for the United States company in a managerial/executive capacity or in a capacity requiring specialized knowledge.**

If the U.S. business is a new business, you will have one (1) year from the date of entry to show that the business is large or complex enough to require a manager or executive. At the end of the year, before the visa is renewed, Immigration will have to be shown evidence that the U.S. business is large or complex enough to need executives or managers on an ongoing basis. This will permit us to extend the L-1A status for an additional three years and begin the residency process. To determine if a business needs a manager or executive on an ongoing 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, and the number of employees employed by the business. For a person with specialized knowledge Immigration will require proof that the requirements are truly specialized.

For new companies Immigration will require a business plan. The purpose of a business plan is to show how the U.S. business is going to be developed over the 12 months following the issuance of the L-1A. The goal of the business plan is to show that, based on the intended development, the business will be able to justify the need for an executives/managers or persons with specialized knowledge by the end of the first twelve months of operation.

If the business in the U.S. has already been in existence for over a year we will need to provide evidence that the operations are substantial enough to justify an executive transfer or a transfer involving specialized knowledge. Immigration will look at the size of the business, the amount of sales or other business done by the business, the type of business, and the number of employees employed by the business. If the business has existed for over a year the petition can be approved for up to three (3) years.

- 6. The visa is called an L-1. The spouse and unmarried children under the age of twenty-one (21) are issued L-2 visas. This permits them to live in the U.S. and attend school. Spouses may obtain employment authorization.**

Proof: Marriage licenses and birth certificates.

- 7. If a residency application is eventually filed in connection with this visa, and if granted, this will not be a conditional residency but a full permanent residency. Once the residency is obtained, there is no need to continue the business operations in the U.S. or in the foreign country, or maintain the relationship between the foreign company and the U.S. company.**
- 8. Until such time as the residency is granted, the foreign company will have to remain fully active. This requirement will not be satisfied if the company is merely registered with the foreign government. We must be able to provide documents to show it is still actively operating.**

9. **There is no minimum investment required to qualify for this visa category and no limits on the percentage of the investment that can be financed. There is also no requirement that the U.S. business be profitable.**

PLEASE NOTE: ALL 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.