

L-1 STATUS AND PROCESSING | FREQUENTLY ASKED QUESTIONS

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1. What is an L-1 visa?

An L-1 intra-company transferee visa can be issued to a foreign national employee who has worked abroad for at least one continuous year within the three years immediately preceding the transfer for a qualifying, related business entity (e.g., parent, subsidiary, or affiliate company). The employment abroad must have been in an executive, managerial or “specialized knowledge” capacity.

The employee must be transferred to the U.S. to work for the same employer, or a parent, subsidiary or affiliate company; again, the employment must be in an executive, managerial or “specialized knowledge” capacity. Persons transferred to the U.S. to hold managerial or executive positions are classified as L-1A nonimmigrants while persons transferred to the U.S. to hold specialized knowledge positions are classified as L-1B nonimmigrants.

2. How does the procedure for filing an L-1 work?

In most cases, an L-1 visa petition must be filed with a USCIS Service Center prior to the individual applying for a visa and entering the U.S. There are two exceptions to this rule: (1) those applying under a blanket L-1 approval for the company (see below), and (2) Canadian citizens (see below). The vast majority of cases must be processed through a USCIS Service Center. Once the petition is adjudicated, and approved, the employee then must apply for the actual L-1 visa at a U.S. Consulate or Embassy in his/her home country.

The petition must include documentation evidencing that the relationship between the U.S. company and the foreign company from which the employee is being transferred is a qualifying relationship. The L-1 petition must also include a description of the managerial, executive or specialized knowledge position that the employee held abroad and the position he/she will assume in the U.S. The petition must also include a description of the individual’s experience with the company that qualifies him/her for the transfer. For managerial/executive transfers, it is helpful to submit organizational charts to show where the individual fits within the corporate hierarchy, both abroad and in the proposed U.S. position.

If the employee is already in the U.S. in another valid nonimmigrant status, a change of status can be requested as long as the employee met the requirements for L-1 classification prior to his/her entrance into the U.S. and has maintained valid nonimmigrant classification up to the time of filing the request for change of status. If the change of status is granted, then the individual acquires valid L-1 status in the U.S., but must apply for the L-1 visa (unless visa exempt) at a U.S. Consulate or Embassy abroad on his/her next departure from the U.S.

3. Is the procedure any different if the alien is a citizen of Canada?

For Canadian citizens, the L-1 petition may be filed directly with a Class A port of entry located on the U.S.-Canada land border, or at a United States pre-clearance/pre-flight station in Canada. The same documentation as mentioned above must be submitted. If the L-1 visa petition is approved, the individual will be issued a Form I-94 indicating the end date of the visa petition period. If he/she presents a Canadian passport, the passport will also be stamped and information regarding the petition period will be written into the passport. These documents serve as the approval notice. Procedurally, the USCIS inspector will forward the petition to the USCIS Nebraska Service Center (NSC). The NSC will issue a fee receipt evidencing that the fees have already been taken at the border/preflight inspection. Eventually, the NSC is required to issue a Form I-797 approval notice which is sent to the petitioner or to the attorney.

4. What classification do family members of L-1 visa holders have?

Family members (spouses and unmarried children under 21 years of age) who derive their dependent nonimmigrant status from a L-1 nonimmigrant will be classified as L-2 nonimmigrants. To obtain L-2 visas (unless visa exempt) at U.S. Consulates, a copy of the L-1 approval notice along with passports and evidence of relationship (marriage, birth certificates) will be required. If family members are already present in the U.S. in another valid nonimmigrant status that allows for change of status, they may be eligible to change status to L-2.

5. Are L-2 nonimmigrants authorized to accept employment in the U.S.?

Yes. In order to obtain work authorization, a spouse on an L-2 visa is required to submit an Application for Employment Authorization Document (Form I-765) after he/she enters the U.S. in valid L-2 status. The Form I-765 should be submitted to the USCIS service center that

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has jurisdiction over the dependent spouse's place of residence, along with the appropriate USCIS filing fee. Note that only L-2 spouses are eligible for employment authorization; L-2 children are not eligible.

6. How long can an alien on an L-1 stay in the U.S.?

Managers and executives may be admitted for up to seven years. Specialized knowledge employees may be admitted for up to five years. If specialized knowledge employees are promoted to a managerial or executive position after admission (and if USCIS is properly notified of the promotion) they may remain for up to seven years. Note that prior H-1B time is counted against the maximum seven or five year limit.

L-1A Petition – Manager / Executive

A1. What are the criteria for classifying an individual as an L-1A Manager?

The definition of "manager" includes those who manage either personnel or a "function" of an organization. USCIS has defined "managerial capacity" as an assignment in which the employee primarily:

- Manages the organization or a department, subdivision, function or some component of the organization
- Supervises and controls the work of other supervisory, professional or managerial employees ~~–or–~~ manages an essential function within the organization or a department or subdivision of the organization
- Has the authority to hire and fire ~~–or–~~ recommend those or other personnel actions; or if no employees are supervised, functions at a senior level within the organizational hierarchy or with respect to the function managed
- Exercises discretion over the day-to-day operations of the activity or function for which the employee has authority. A first-line supervisor is not considered to be acting in a "managerial capacity" merely by virtue of the supervisory duties unless the employees supervised are "professional"

A2. What are the criteria for classifying an individual as an L-1A Executive?

The definition of "executive" applies to those assignments where the employee:

- Directs the management of the organization or a major component or function of the organization
- Establishes the goals and policies of the organization, component or function
- Exercises wide latitude in discretionary decision-making
- Receives only general supervision or direction from higher level executives, the board of directors or shareholders of the organization

A3. Are the qualifications for L-1A the same as the qualifications for the EB1 (employment based first preference) Multinational Managerial / Executive transfer for a Green Card?

Not quite. In order to qualify for the EB-1 transfer, your qualifying experience abroad must consist of at least one year as a manager or executive prior to the transfer into the U.S. The EB-1 multinational managerial/executive transfer allows for an individual to bypass the labor certification process and have their employer file an I-140 immigrant visa petition directly with USCIS. This is significantly different from the L-1A transfer, where the qualifying experience with the employer abroad can be as a manager/executive or as a specialized-knowledge employee. In the situation where the L-1A transferee's qualifying experience was not as a manager or executive but involved specialized knowledge, a labor certification would be required.

L-1B Petition – Specialized Knowledge

B1. How is L-1B specialized knowledge defined?

"Specialized knowledge" means an individual has special knowledge of the organization's products, services, research, methodologies, equipment, techniques, management or other interests and their applications in international markets. Alternatively, "specialized knowledge" can mean that the employee has an advanced level of knowledge or expertise in the organization's processes and procedures. Furthermore, this specialized knowledge must be necessary to carry out the duties of the position in the U.S.

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With certain exceptions, L-1B specialized knowledge visas will not be issued to individuals working at a third-party employer site other than the petitioning employer's worksite. Off-site placement to provide labor to a third-party employer is not permitted. This provision applies to initial applications as well as to extensions or amendments as of June 6, 2005.

Blanket L-1 Petition

C1. What is a blanket L-1?

A blanket L-1 is a mechanism for obtaining an L-1 visa without filing an individual petition each and every time with USCIS. This amounts to "blanket certification" that a company meets all the requirements for transferring employees from abroad. Once a blanket L-1 is approved for a company by USCIS, that employer may submit petitions for L-1 visas directly at a Consulate or Embassy for its employees wishing to transfer to the U.S. Please note that even after a company obtains blanket L-1 approval, not all petitions will qualify for submission to the Consulate or Embassy. For example, the specialized knowledge category under the blanket L-1 requires that the individual possess a bachelor's degree or its equivalent through a combination of education and work experience. Also, if the foreign office was not included in list of offices approved on the blanket L-1 filing, then employees from that office cannot be transferred to the U.S. under the blanket L-1. In these types of situations, individual L-1 petitions would be required.

C2. What are the requirements for the blanket L-1?

In addition to the normal requirements for an individual L-1, in order to qualify for the blanket L-1, a petitioner and each of its subsidiaries, branches or affiliates must be engaged in commercial trade or services, the petitioner must have an office in the United States that has been doing business in the United States for one year or more and the petitioner must have three or more domestic and foreign branches or subsidiaries. Moreover, the petitioner and the other qualifying organizations must satisfy one of the following criteria:

- The petitioner and its qualifying organizations have obtained approved petitions for at least ten L-1 managers, executives and/or specialized knowledge professionals during the previous year;
- The petitioner has annual sales in the U.S. of at least \$25 million; or
- The petitioner has a U.S. workforce of at least 1,000 employees.

C3. For the blanket L-1, are the definitions for manager, executive and specialized knowledge the same as what USCIS utilizes for individual L-1s?

The definitions are the same except that aliens transferring to the U.S. in specialized knowledge positions must be "professionals". This generally means that they must have at least a bachelor's degree or its equivalent in a related field through a combination of education and work experience.

C4. Is the qualifying period of experience abroad the same for the blanket L-1?

Yes. As of June 6, 2005, the blanket L requirement is also one year of continuous employment with an affiliate organization abroad. For a brief period in the past, USCIS had allowed blanket L-1 applications to be approved for those with only six (6) months of qualifying employment abroad. However, this policy has now been changed and one year of qualifying experience must be gained before any L-1 visa is issued. This provision will only apply to new L-1 petitions. Those individuals admitted under a blanket L petition when only 6 months of experience was required will remain eligible for extension of L-1 status.

C5. For how long is the blanket L-1 petition valid?

The blanket L-1 is initially valid for three years.

C6. Can the blanket L-1 be extended?

Yes, it can be extended for an indefinite period.

L-1 Filing Fees

D1. What are the filing fees for an L-1?

In addition to the appropriate USCIS filing fee for the L-1 petition, effective June 6, 2005, there is a \$500 anti-fraud fee to be paid by the employer at the time of initial application for all L-1 visas. In the case of applications at under a blanket L-1, the fee will be paid at the U.S. Embassy/Consulate. Extensions of L-1 status for the same employer are not subject to this fee. If premium processing is sought, the standard \$1000 premium processing fee will also apply.

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Spouses and children of L-1 temporary workers may be granted specific visas to accompany the temporary worker. The derivative nonimmigrant classification which these individuals may be granted is the L-2 visa. The Consular Officer must be satisfied that a valid familial relationship exists in order for a derivative classification to be given.

Here are some frequently asked questions and answers regarding the L-2 visa.

1. Can an individual in L-2 status work?

Yes. L-2 spouses can work while in the United States. We strongly urge L-2 spouses to apply for Employment Authorization Documents (EADs) via USCIS Form I-765 in order to work in the U.S. without issue. While there is a general understanding between The U.S. Department of Homeland Security (DHS) and the Social Security Administration (SSA) that an L-2 spouse need not obtain an EAD to work, the reality is that the SSA is inconsistent in issuing Social Security numbers to individuals who do not possess a USCIS document indicating employment authorization. The better option is for the L-2 spouse to apply for an EAD card. An EAD may be issued in increments of up to two years at a time but cannot be issued for a period longer than an L-2's authorized period of stay (the Form I-94 expiration date), which also corresponds with the L-1 principal's status in the United States. Please note that L-2 children do not have the ability to work in the U.S. L-2 children and spouses may attend school with no other documentation required.

2. What are the requirements for the L-2 visa?

The requirements vary depending on the Consulate at which you apply and whether the L-1 worker was admitted to the US as an L-1 under an individual petition or under a blanket L-1 petition for his/her company. However, the following are common requirements at all Embassies/Consulates:

- The "confirmation page" of your completed Department of State visa application form, the electronic State Department **Form DS-160**. You need not bring your entire DS-160 application; your DS-160 confirmation page is all the US Embassy needs to retrieve your data. However, you must bring the DS-160 confirmation page with you during all phases of the application process. Without the confirmation page, it may not be possible to access your application and process your visa case. The DS-160 can only be created by you online; we cannot prepare it for you. Please note that it must be created not only for you, but for any and all family members who will accompany you to the United States. To create the DS-160 online, please visit the following URL: <https://ceac.state.gov/genniv>. To learn more about the DS-160, please review the State Department FAQ at this URL: http://travel.state.gov/visa/forms/forms_4401.html. If you encounter any difficulties creating the DS-160 form, please contact our office for assistance.
- **Photographs.** Most Consulates require two passport style photographs from each applicant. Check the Consulate's website for photo specifications and number of photos needed.
- **Valid passport.** Your passport must be valid for a minimum of six months and preferably for a minimum of six months beyond the requested period of stay.
- **Fee.** There are two fees. All consulates charge a non-refundable visa application fee. The second fee varies depending on your country of citizenship. Check the appropriate section of the visa reciprocity schedule for the specific fees, http://travel.state.gov/visa/fees/fees_3272.html. We suggest that when provided the option that you select a multiple entry visa that is valid for the longest period available to you. You should also review the appropriate Consulate's website for information on how the fee must be paid (e.g., demand draft, etc.).
- **Proof of relationship to the L-1 worker.** If you are the spouse of the L-1 worker, you must provide your marriage certificate as proof. Other documentation that demonstrates the bona fides of the marriage (e.g. wedding photos, wedding invitation, etc.) may also be requested by the Consulate. If you are a child of the L-1 worker, you must bring your birth certificate as proof. The Consular Officer can insist on reviewing the original documents. Therefore, we suggest that you have the original documents to present along with copies, should the Consular Officer decide to ask for copies to keep in his/her file.
- **L-1 worker's L-1 approval notice.** We also recommend that you bring a copy of the L-1 petition and supporting documentation, which we filed on behalf of the L-1 worker either directly at a U.S. Consulate (if filed under an employer's blanket L-1) or with USCIS if filed as an individual L-1 petition. If you were also the beneficiary of a change to or extension of L-2 status that you also present your original approval notice showing that you were previously accorded L-2 status. Please note that if the L-1 worker, whose case was

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filed as an individual petition and not under an employer's blanket L-1, is applying for the L-1 visa at the same time that the L-2 applicants are applying for the L-2 visas, then the original L-1 petition I-797 approval notice must be presented. If the L-2 applications are being submitted separately from the L-1 visa application, then a copy of the L-1 I-797 approval notice must be submitted, in addition to a copy of the front and back of the L-1 I-94 card and the L-1 visa stamp

- **Proof that the L-1 worker is in valid L-1 status in the U.S.** If the L-1 worker is in the U.S., then a copy of his/her Form I-94 evidencing status in the U.S. should be presented. In addition, a current employment verification letter from the employer on letterhead which confirms that the L-1 worker is still working for the L-1 employer and/or recent pay stubs from the L-1 employer should also be presented.

3. How old must the child be in order to qualify?

The child must be under 21.

4. Do I need an appointment at the Consulate?

Yes. Check the Consulate's website for more information: <http://usembassy.state.gov>.

5. If my visa is approved, how long will it take to receive it?

This depends on consular workload and the length of any applicable security checks, the process may take a day, weeks or months. Check the Consulate's website, <http://usembassy.state.gov>

6. How can I find the Consulate's website?

Go to <http://usembassy.state.gov> and click on the specific country/consulate. Most of the information needed can be found in the section entitled "Nonimmigrant visas".

7. Once issued, how long will my L-2 visa be valid?

Typically, L-2 visas are issued for the validity period of the underlying principal's L-1 petition. However, depending on the country of nationality of the applicant, visas may be issued for less time. For example, Chinese nationals are issued visas for 24 months, valid for multiple entries to the U.S., regardless of the validity of the underlying L-1 petition. This limitation is based on the reciprocity agreement between the U.S. and China. Check the reciprocity table for your country on the DOS website:

http://travel.state.gov/visa/fees/fees_3272.html.