

XIV. L-1B VISA/ STATUS – SPECIALIZED KNOWLEDGE TRANSFEREE

This enables a U.S. employer to transfer a professional employee with specialized knowledge relating to the organization's interests from one of its affiliated foreign offices to one of its offices in the United States. This also enables a foreign company which does not yet have an affiliated U.S. office to send a specialized knowledge employee to the United States to help establish one. The employer must file Form I-129, Petition for a nonimmigrant worker, on behalf of the employee.

L-1B Visa/ status is available for Specialized Knowledge Transferees who transfer from a foreign company to a subsidiary, parent, or U.S. affiliate Company. To qualify, the companies must be currently doing business; and the transferee must have worked for the foreign company for at least one continuous year in a position requiring specialized knowledge within the preceding three years prior to her transfer to the United States.

This visa must meet the three following requirements: (a) The petitioning United States company must be affiliated with the company abroad, as a branch, subsidiary, or affiliate. This relationship is demonstrated either by one entity having control over the other, or by both entities being controlled by the same person or entity; (b) the L-1B visa applicant must be employed at the company abroad for at least one of the previous three years before the L-1B visa application is filed with the INS. Time spent in the United States on temporary assignment or as a trainee of the foreign firm does not count toward the one year of employment with the company abroad; (c) the employee must be coming to work at the United States company to utilize specialized knowledge.

L1B VISA REQUIREMENTS FOR COMPANIES:

The company located in the United States is the petitioning company and must meet specific requirements. It's essential that the U.S. company have a formal affiliation with the foreign entity. The connection may be as a subsidiary, division, affiliate or branch. The connection must be clearly established and verified. This relationship may be shown by the fact that both entities are controlled by the same person or group or by demonstrating that one company owns more than 50% of the other.

L1B VISA REQUIREMENTS FOR INDIVIDUALS:

The area of specialized knowledge for the individual includes highly developed technical expertise or professional knowledge. It also relates to a person's private, exclusive understanding relating to a company's products, services, methods of production, organizational make up, and marketing strategies or other information that's connected to the successful functioning of the entity in the United States. Additional types of unique knowledge include that which is related to the company's products and services and their successful application in the international market or an intimate and unique understanding of the company's procedures, systems or methods.

To qualify for L-1 classification in this category, the employer must: (a) Have a qualifying relationship with a foreign company (parent company, branch, subsidiary, or affiliate, collectively referred to as qualifying organizations); (b) currently be, or will be, doing business as an employer

in the United States and in at least one other country directly or through a qualifying organization for the duration of the beneficiary's stay in the United States as an L-1. While the business must be viable, there is no requirement that it be engaged in international trade.

To qualify, the named employee must: (a) generally have been working for a qualifying organization abroad for one continuous year within the three years immediately preceding his or her admission to the United States; (b) be seeking to enter the United States to render services in a *specialized knowledge* capacity to a branch of the same employer or one of its qualifying organizations. **Note:** Specialized knowledge means special knowledge possessed by an individual of the petitioning organization's product, service, research, equipment, techniques, management, or other interests and its application in international markets, or expertise in the organization's processes and procedures.

The L-1B Status may be granted for up to three years. But for those companies that are just newly established, USCIS would grant status for one year only. Given both the U.S. and foreign company is engaging in the business and are affiliated, while the employee is doing specialized knowledge work for the U.S. company, the L-1B status can be extended for up to 5 years.

The family members of L-1B workers (spouse and children below 21 years old and not married) are eligible to obtain L-2. They may accompany the L-1B transferee and remain in the United States. Moreover, those individuals with L-2 status may attend schools and the spouse of the transferee can apply for an employment authorization and when approved, the spouse may work at any legal jobs.

To find out more about the procedural steps involved and an estimate of fees, call or email us today for your free in-depth consultation!