

The L-1A Visa

(Multinational Executives and Managers)

By Bruce Coane

The L1A visa is one of the most popular ways by which the owner, manager or executive of a foreign corporation can obtain permanent lawful status in the United States. If a foreign national has worked outside of the U.S. for one continuous year within the preceding three years in an executive or managerial capacity for a qualifying company, he or she can obtain a non-immigrant L-1A visa to work in a related U.S. company in the same position.

This type of visa is very useful for foreign nationals in the business world. International companies mostly use this type of visa for the transfer of their managerial personnel to fill managerial or executive positions in their U.S. parent, subsidiary, or affiliate companies.

Under INA 101(a)(44)(A), “managerial capacity” means that the employee primarily manages the organization, controls the work of other supervisors, or manages a function, has the authority to hire or fire, exercises discretion over the day-to-day operations or function for which the employee has authority. “Executive capacity” means that the employee primarily directs the management, establishes goals and policies, and exercises wide latitude in decision-making.

Unlike other non-immigrant visas, an L-1A visa allows for dual intent, which means that nonimmigrant intent is not required in the issuance of an L-1 visa. The foreign corporation/petitioner files form I-129 with the L supplement with the USCIS. Once the petition is approved, the petition is sent to the designated U.S. consulate so the foreign national can apply the L-1A visa.

The first authorized stay for L-1A applications varies from case to case. If the U.S. company is newly incorporated, the first authorized period of stay permitted is usually only one year with a possible three-year extension. The total period of stay may be extended to seven years for L-1A managers and executives.

The spouse and the unmarried children under 21 of an L-1A visa holder can obtain L-2 status and stay in the U.S. with the principal L-1A visa holder. The L-2 status will be dependent on the validity of the principal's L-1A. The L-2 visa holders can attend school. With a proper employment authorization document (EAD) from the USCIS, the L-2 spouses can lawfully work in the country. The EAD is valid for 2 years and may be renewed as long as the L-2 holder maintains the visa status.

Bruce A. Coane is Board Certified in Immigration and Nationality Law by the Texas Board of Legal Specialization and has practiced labor and employment law for 25 years. The law firm of Coane & Associates has offices at 407 Lincoln Road, Suite 306, Miami Beach, Florida 33139, Tel. (786) 457-VISA (8472) and 1900 West Loop South, Suite 820, Houston, Texas 77027, Tel. (713) 850-0066. The law firm website is www.coane.com. The law firm email is houstonlaw@aol.com.