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Green Card for Multinational Manager or Executive or L-1A Intracompany Transferee – New USCIS Clarifications on EB-1C

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Generally, a **multinational manager or executive** (**L-1A intracompany transferee**) who has worked outside the U.S. for a qualifying multinational organization for at least one (1) out of the three (3) years may apply for an immigrant petition to be a U.S. permanent resident under employment-based classification 1 (**EB-1C**). This is pursuant to Section 203(b)(1)(C) of the Immigration & Nationality Act (INA).

Lawful permanent residence is also known as Green Card. There are many ways for foreign nationals to apply for Green Cards in and to the U.S., and EB-1C multinational manager or executive is just one of them. An EB-1C Green Card is initiated by a qualifying employer by filing an I-140 Immigrant Petition for Alien Worker. After complying with the qualifying period as a Green Card holder, a person is eligible to apply for naturalization to be a U.S. citizen. Once a person is naturalized, he/she may apply for a U.S. passport.

If the beneficiary is **outside the United States** at the time of filing the Green Card, the multinational manager or executive's **one-year qualifying foreign employment**

must have occurred **within the three years preceding the filing of the petition**. 8 C.F.R. § 204.5(j)(3)(i)(A). If the multinational manager or executive **is already working in the United States** in L-1A status for the L-1A employer-petitioner, or its affiliate or subsidiary, at the time of filing filing the Green Card, the employer-petitioner must demonstrate that the L-1A multinational manager or executive's **one-year qualifying foreign employment must** have occurred **within the three years preceding his or her entry** as a nonimmigrant. See 8 C.F.R. § 204.5(j)(3)(i)(B).

An intracompany transferee of **specialized knowledge** who is not a multinational manager or executive such as those under **L-1B** does not qualify for Green Card under EB-1C.

The approval of an immigrant petition for multinational manager or executive with the eventual approval of I-485 Applications for Adjustment of Status in the U.S. or approval of immigrant visas consular processing, will confer the multinational manager or executive and his/her qualifying family members with Green Cards.

Recently, the **U.S. immigration clarifies** that if the multinational manager or executive **leaves the qualifying employer for more than two (2) years** after working with a qualifying employer for at least one (1) year, he/she will **not qualify for Green Card under EB-1C** even if he returns to the same qualifying employer. This ineligibility applies **regardless if the interruption of employment happened prior to multinational manager or executive's admission as a nonimmigrant or after his/her entry to the United States**. **To qualify again**, the multinational manager or executive must **complete another year of qualifying employment with the qualifying employer outside the U.S.,** before being eligible to apply for Green Card under EB-1C. However, an employee whose break in continuous employment with the qualifying employer is less than 2 years **may** still be eligible to apply for EB-1C.

This U.S. immigration clarification is published as a policy memorandum on March 22, 2018 by U.S. Citizenship and Immigration Services (USCIS) based on The Administrative Appeals Office (AAO) immigration adjudication of the ***Matter of S-P-, Inc.***, Adopted Decision 2018-01 (AAO Mar. 19, 2018) on March 19, 2018. **This AAO adjudication is utilized as a form of policy memorandum by USCIS serving as a guidance only, and does not create any rights to Green Card. Each case is adjudicated on a discretionary basis by USCIS.** For further information on the ***Matter of S-P-, Inc.***, please see

https://www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/2018/2018-03-19-PM-602-0158-Matter-of-S-P.pdf

Even though not all immigration cases are appealed to the AAO, AAO has appellate jurisdiction over approximately 50 different types of immigration case. AAO is under the jurisdiction of the U.S. Department of Homeland Security (DHS). USCIS is a part of DHS. Certain immigration cases are appealed to the U.S. Department of Justice (DOJ) such as the Board of Immigration Appeals (BIA).

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This article is intended for informational purposes only, and should not be relied on as legal advice or attorney-client relationship. By **Aik Wan Kok, Lawyer USA Immigration Services, at Tiya;** Tel: 703-772-8224 & info at tiyaimmigration dot com; Direct dial from abroad: 001-703-772-8224; http://www.tiyaimmigration.com ; http://tiyalaw.blogspot.com ; http://immigrationresource.net

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