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L-1 One-Year Foreign Employment Requirement

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L-1 One-Year Foreign Employment Requirement

Recently, U.S. Citizenship and Immigration Services (USCIS) clarified the “one-year foreign employment” for an L-1A intracompany transferee as follows:

1. The L-1 Beneficiary must be physically outside the U.S. during the continuous one-year foreign employment, except for brief visits to the U.S. Additional days of foreign employment must be accrued to account for the brief visits to the U.S.
2. The L-1 Beneficiary must have been employed abroad by a qualifying organization for at least one continuous year out of the three (3) years when the **“initial L-1” is being “filed” to USCIS**, regardless of when the L-1 Beneficiary was or will be admitted to the U.S.
3. Additionally, the **3-year period is calculated** as below:
 - (a) If L-1 Beneficiary is already in the U.S. **working in a non-L-1 nonimmigrant work status** (e.g. H-1B or E-2) **for the qualifying organization**, the **3-year period**

is to look back 3 years from the non-L-1 nonimmigrant work status (e.g. H-1B or E-2).

(b) The 3-year period is to **look back for 3 years from the date of filing the initial L-1 Petition**:

(i) If L-1 Beneficiary is **working in the U.S. for the qualifying organization** in an **L-2 dependent status of L-1 or F-1 student** such as Optional Practical Training.

(ii) If L-1 Beneficiary is already **in the U.S. working for an unrelated organization or not working**.

(iii) If it is an L-1 extension.

4. Moreover, if an L-1 Beneficiary stops working for the qualifying organization as a principal beneficiary for a period of more than two years during the three years preceding the petition filing, the one-year foreign employment requirement will not be met. Such an L-1 Beneficiary must start another one-year employment in a managerial, executive, or specialized knowledge capacity with the qualifying organization abroad to qualify for an L-1 Petition.

USCIS is a part of DHS. USCIS administers the U.S. lawful immigration system such as adjudicating requests for immigration benefits.

For additional information, please visit:

<https://www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/2018/2018-11-15-P-M-602-0167-L-1-foreign-employment-requirement.pdf>

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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: 703-772-822four & info at tiyaimmigration dot com; Tel (from abroad): 001-7037728224four;

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Aik Wan Kok at Tiya represents companies, employers, individuals and families,

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