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EB-1 Multinational Manager or Executive Green Card Information

The **EB-1 Multinational Manager or Executive Green Card** is an immigration category that will permit a foreign worker to live and work in the United States on a permanent basis. Once the green card is issued, the worker is free to do what he or she likes and may discontinue working for the employer/sponsor.

Requirements: To qualify for the EB-1 Multinational Manager or Executive Green Card, an applicant must prove all of the following:

1. There must be a U.S. company or organization that is active and conducts regular and systematic operations. We call this the “U.S. Employer.”

A U.S. company or organization must be established for at least one year and must be active. Its operations must occur on a regular, ongoing basis. Applicants must provide evidence of activity, such as the business registration, lease or deed for business premises, occupational license, photographs of the business premises and operations, proof that the business has employees (such payroll tax records), advertising, receipts for business expenses, invoices, contracts, and recent financial information (such as balance sheets, financial statements, company income tax return, and recent bank statements for the company).

2. There must be a company or organization *located outside of the U.S.* that is active and conducts regular and systematic operations. We call this the “Foreign Employer.”

The applicant must provide evidence that a company or organization located outside the U.S. is currently active and conducts business on a regular, ongoing basis. This foreign company or organization must continue to be active for the duration of the applicant’s EB-1 application. Once the green card is approved, it does not matter if the Foreign Employer is no longer active.

3. The U.S. Employer and the Foreign Employer *must be related entities.*

To be “related entities,” the U.S. Employer and the Foreign Employer must be *affiliates* OR one should be the *subsidiary* of the other.

To qualify as affiliates, the same individual or groups of individuals must own a controlling interest (at least 50%) in both the U.S. Employer and the Foreign Employer. To qualify as a subsidiary, the Foreign Employer must own the U.S. Employer or vice versa. Evidence must be provided to show who owns the U.S. Employer and the Foreign Employer, such as U.S. and foreign company income tax returns and stock certificates.

For example, if John Smith owns 100% of an active company in the U.K., and recently purchased 50% of an active business in the U.S., then he owns a controlling interest in both companies. The companies are affiliates, meaning they are related and will qualify for an L-1 Visa.

The U.S. Employer and the Foreign Employer do not have to engage in the same line of business, though it helps the application if there is some logical connection between the two entities.

4. The applicant must have worked for the Foreign Employer for at least 1 full year as an *executive or manager*.

The applicant must prove full time employment by Foreign Employer for at least one continuous year. If the applicant is outside the U.S., then the 1 year of employment must be within the prior three years. If the applicant is in the U.S., then the 1 year of employment must be within the three years prior to the applicant's admission into the U.S. as a nonimmigrant worker.

The applicant should have received some form of compensation during the year of employment abroad. Company payroll records or tax forms must be provided as evidence of employment.

The applicant must also prove that he or she worked as an executive, or manager-level employee. These terms are complicated, but are extremely important.

Under U.S. immigration rules, an "executive" does all of the following: (1) directs the management of the organization or a major component or function thereof; (2) establishes the goals and policies of the organization, component, or function; (3) exercises wide latitude in discretionary decision-making; and (4) receives only general supervision or direction from higher level executives, the board of directors, or stockholders of the organization.

A "manager" does all of the following: (1) manages the organization or a department, subdivision, function, or component thereof; (2) 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 thereof; (3) if another employee or other employees are directly supervised, has the authority to hire and fire or recommend those as well as other personnel actions (such as promotion and leave authorization) or, if no other employee is directly

supervised, functions at a senior level within the organizational hierarchy or with respect to the function managed; and (4) exercises discretion over the day-to-day operations of the activity or function for which the employee has authority.

5. The applicant must work for the U.S. Employer as an *executive* or *manager* NOW or AFTER the green card is approved.

The applicant must be seeking permanent residence in order to work exclusively for the U.S. Employer.

In addition, the applicant must show that he or she currently works or will work as an executive or management-level employee. An explanation of meaning of the words “executive” and “manager” has been provided above. The easiest way to qualify as an executive or as a manager is to show that the applicant will supervise one or more professional-level workers OR will supervise a supervisor, who in turn supervises one or more regular workers.

The government likes to deny EB-1 Multinational Manager or Executive Green Card applications if it believes that the applicant is not a manager or executive, but instead is a “front line supervisor” (someone involved in regular operations who supervises non-professional workers). For the same reason, problems also can occur if U.S. employer has no employees, or is very small. The government often asks who provides the goods and services offered by the company. It should not be the applicant. The applicant must fill a senior position within the company or organization.

The applicant should provide evidence that he or she is qualified to work in the position offered. This includes a resume, relevant diplomas and reference letters from prior employers.

6. The U.S. Employer must prove that it has the “ability to pay” the applicant at the time the green card application is filed AND at the time the application is approved.

The U.S. employer must provide its tax return at the time the green card application is filed. It may also have to provide its tax return later, while the application is being processed. The tax return(s) must show that EITHER the U.S. employer’s *net income* (profit) OR *net assets* are greater than the salary offered to the applicant. In the alternative, the U.S. employer can provide evidence that the applicant is already on its payroll and already receives the wage offered in the green card application.

Other applicable rules.

Family: If the applicant qualifies for the green card, his or her spouse and children under 21 will automatically qualify as well.

Adjustment of Status or Consular Processing: prior to issuing a green card, the government will perform a background check on the applicant and his or her family member. This background check is called either adjustment of status or consular processing, depending on whether it is performed in the U.S. or abroad. We can provide additional information about this process on request.