

USCIS Offers Clarification of Policy on L-1 Petition

On Friday, October 20, 2023, U.S. Citizenship and Immigration Services (USCIS) issued policy guidance clarifying the two following points with respect to the L-1 petition for intracompany transferees:

A sole proprietorship may not be the Petitioning Employer when filing an L-1 Petition on behalf of its owner.

Explanation

USCIS indicated that a sole proprietorship does not exist as a distinct legal entity separate and apart from the owner. The update distinguishes a sole proprietor from a self-incorporated petitioner (e.g., a corporation or a limited liability company with a single owner), where the corporation or the single member limited liability company is a separate and distinct legal entity from its owner. In that instance, the corporation or limited liability company with a single owner could be the Petitioning Employer on behalf of the owner.

Analysis

This update clarifies the qualifications for a Petitioning Employer. The Petitioning Employer's existence cannot depend on the individual seeking the L-1 visa. The entity must exist completely separate and apart from its owner. Therefore, when analyzing a potential L-1 petition, the structure of the petitioning employer and the L-1 applicant's relationship to the petitioning employer must be reviewed.

Failure to timely file a Blanket L Extension Petition does not trigger the three-year waiting period.

Explanation

USCIS updated policy guidance to clarify that the failure to timely file an extension of the Blanket L Petition **does not** trigger the three-year waiting period before another blanket petition may be filed.

Analysis

This update offers clarification on when a Blanket L Petition can be filed. Typically, if a Blanket L Extension Petition was denied by USCIS, the Petitioner and its qualifying organizations must wait three years to file another blanket petition. In the interim, organizations would need to file individual petitions for beneficiaries applying for L-1 visas. However, if the Petitioner does not file an extension, and the Blanket L has expired, they can file a new Blanket L Petition at any time without any waiting period.

This guidance, contained in Volume 2 of the Policy Manual, is effective immediately.

Please reach out to a member of our Immigration Team if you have any questions.



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