



A Start-up Guide to Employment Immigration

Transferring to the United States to work is not easy, immigration-wise. Human Resources departments should be aware of the different non-immigrant classifications and the requirements, duties, and costs each classification brings about. Having an employee in the US working without the appropriate visa – no matter for how short a time – can result in fines and even criminal prosecution for the company, as well as long lasting consequences for the employee.

Visitor Visas

First of all, it is worth noting the difference between entering the US to work or on business. The kinds of activities that can be performed as a visitor for business are very limited and, although listed, frequently ambiguous and fluid. In order to enter the U.S. on business, a VWP (ESTA) or “visitor” visa (B-1) may suffice. The only difference holding a B-1 visa brings as opposed to entering on the VWP with an ESTA is the authorized period of stay. The VWP authorizes stays of up to 3 months, while an actual B-1 visa allows for stays of up to 6 months.

Employment Visas

On the other hand, work implies performing regular duties for wages or a salary. To enter the United States to work, the visitor needs a “work” visa. A temporary worker who is incorporated into a company’s payroll needs the employer to petition for one of the work visas available (E1/ E2; H-1B; L-1A/ L-1B; O-1). Each visa type has different requirements and the periods of stay and extensions options also vary.

Prior to moving the employee from Germany (or the EU) to the United States, the employer must consider the country of nationality of both the company and the employee, the length of time the employee will be needed in the US, and the level of education and job duties he or she is going to perform. Salary issues may also come up while looking into visa options or preparing the petition for certain classifications.

As with everything else, the devil is in the details and each visa classification has its own advantages and disadvantages, therefore careful preparation and follow up is essential.

Your Contact



Betina Schlossberg
Tel: +1 734 786-2900
bschlossberg@bsblegal.com
www.bslegal.com

