

Client Alert - US Customs & Border Protection Rejecting L-1 Renewals

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Until quite recently, Canadian citizens were able to submit renewal L-1 nonimmigrant visa petitions at US ports-of-entry. However, many Canadian citizens seeking renewals of their L-1 nonimmigrant visa petitions have recently been rejected by US Customs and Border Protection (**CBP**).

Created in 1970 by the US Government to facilitate the movement of executives, managers, and specialized knowledge personnel employed by global business organizations, the L-1 nonimmigrant visa category is currently the most widely utilized work-authorized US nonimmigrant visa category.

To qualify for the L-1 nonimmigrant visa category, the Beneficiary must have been, at the time the petition is submitted to US Citizenship and Immigration Services (**USCIS**) or CBP, employed for a minimum of one year in the last three years by a parent, subsidiary, branch, or affiliated company of the US petitioning employer. This qualifying employment must be in an executive, managerial, or specialized knowledge capacity.

Since entering the North American Free Trade Agreement (**NAFTA**), Canadian citizens have been able to appear at Canadian border US ports of entry or Canadian pre-clearance airports to apply for a renewal of their L-1 NIV status without first obtaining an approval from USCIS.

While CBP has not officially confirmed a change in policy or practice, Canadian citizens applying for L-1 readmission at various Canadian ports of entry are not being allowed to renew their L-1s under the North American Free Trade Agreement. Instead, they are being told that they must first obtain approval of their L-1 petition by USCIS in the US.

Employers and Canadian L-1 applicants should be aware of the situation and should work closely with immigration counsel to determine the most appropriate strategy for L-1 renewal.

Our firm will continue to monitor developments on this issue and report on updates as they occur.