U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF F-T-, INC.

DATE: OCT. 10, 2018

APPEAL OF CALIFORNIA SERVICE CENTER DECISION

PETITION: FORM I-129, PETITION FOR A NONIMMIGRANT WORKER

The Petitioner, a seller of core auto and train parts that are manufactured by its foreign affiliate, seeks to continue the Beneficiary's temporary employment as its president under the L-1A nonimmigrant classification for intracompany transferees.[1] *See* Immigration and Nationality Act (the Act) section 101(a)(15)(L), 8 U.S.C. § 1101(a)(15)(L). The L-1A classification allows a corporation or other legal entity (including its affiliate or subsidiary) to transfer a qualifying foreign employee to the United States to work temporarily in a managerial or executive capacity.

The Director of the California Service Center denied the petition concluding that the Petitioner did not establish, as required, that the Beneficiary would be employed in the United States in a managerial or executive capacity.

On appeal, the Petitioner provides a brief in which it further explains the Beneficiary's duties during the start-up phase of its operation, explaining how those duties and the hiring of a support staff allowed the new company to progress to the next operational phase, which involves new job duties that are consistent with the expanded operation. The Petitioner focuses on the Beneficiary's executive role within its organization in the United States and points to previously submitted evidence, which shows that the Beneficiary relies on subordinate employees to carry out critical operational functions. The Petitioner also points to the Beneficiary's role within the context of a broader international organization, which involves a foreign manufacturing operation and its use of the Petitioner's U.S.-based operation to expand into new markets.

Based on our analysis of the totality of the evidence, we find that the Petitioner has submitted sufficient evidence to establish that it has the ability to support the Beneficiary in an executive position so that the Beneficiary will more likely than not allocate his time primarily to performing tasks of an executive nature.

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[1] The Petitioner previously filed a "new office" petition on the Beneficiary's behalf which was approved for the period December 19, 2016, until December 18, 2017. A "new office" is an organization that has been doing business in the United States through a parent, branch, affiliate, or subsidiary for less than one year. 8 C.F.R. § 214.2(l)(1)(ii)(F). The regulation at 8 C.F.R. § 214.2(l)(3)(v)(C) allows a "new office" operation one year within the date of approval of the petition to support an executive or managerial position.

Upon *de novo* review, we find that the Petitioner has overcome the Director's decision. Therefore we will sustain the appeal.

ORDER: The appeal is sustained.

Cite as *Matter of F-T-, Inc.*, ID# 1672221 (AAO Oct. 10, 2018)