

TN *vs.* O-1 *vs.* L-1 *vs.* H-1B

A scoring matrix for founders and senior executives



5 = strongest fit for a founder / executive · 1 = weakest fit *Educational tool only — not legal advice.*

FACTOR	TN TREATY PROFESSIONAL	O-1 EXTRAORDINARY ABILITY	L-1 INTRACOMPANY TRANSFER	H-1B SPECIALTY OCCUPATION
Founder / Ownership Control L-1 is built for owner-operators expanding a foreign business; TN and H-1B assume a conventional employer-employee relationship.	1	4	5	2
Corporate Structure Requirements L-1 requires a qualifying foreign parent/subsidiary/affiliate relationship; O-1 is the most flexible via an agent-petitioner structure.	2	3	2	3
Dual Intent H-1B and L-1 carry recognized dual intent by statute; TN requires nonimmigrant intent; O-1 has no explicit dual-intent bar in practice.	1	4	5	5
Spouse Employment L-2 spouses get automatic work authorization incident to status; H-4 EAD requires an approved I-140 or AC21 extension and is subject to regulatory change; O-3 and TD spouses cannot work.	1	2	5	3
Timing to Approval TN can be same-day at the border for Canadians; O-1 and L-1 qualify for premium processing (~15 days); H-1B is lottery-dependent and slowest.	5	4	4	2
Evidentiary Burden TN needs a degree plus a listed-profession job offer; O-1 requires documented extraordinary ability against USCIS's criteria — the heaviest lift.	5	2	3	3
Long-Term Green Card Optionality L-1A leads efficiently to EB-1C; O-1 often leads to EB-1A; both skip labor certification. H-1B typically requires PERM. TN has no built-in bridge.	1	5	5	3

Total Score SEVEN FACTORS, WEIGHTED EQUALLY	16	24	29 HIGHEST FIT	21
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HOW TO USE THIS MATRIX

This matrix is a starting point for conversation, not a legal determination.

- 1 Review each factor against your own circumstances — citizenship, ownership stake, corporate structure, and long-term goals.
- 2 The 1–5 scores reflect general fit for a founder or senior executive, not eligibility. You may be eligible for a category that scores lower here if your specific facts are strong.
- 3 Total score is a simple sum across all seven factors, weighted equally. Mark the factors that matter most to you to double their weight and see the totals shift.
- 4 Immigration law changed materially in 2025–2026 around H-1B fees and H-4 spousal work authorization. Confirm current rules before relying on any single factor.
- 5 This tool does not replace an individualized consultation. Contact Berardi Immigration Law to build a strategy around your specific facts.

NEXT STEP

Your facts decide the category — not the score.

Ownership stake, corporate structure, citizenship, and timing all shift these numbers. Bring us your situation and we will build the strategy around it.

Berardi Immigration Law

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SCHEDULE A CONSULTATION