



PERMANENT IMMIGRATION FACT SHEET

An Introduction to Permanent Immigration

Permanent immigration is the ultimate goal of many people entering or planning to enter the U.S. Lawful permanent residency offers individuals many benefits, including the freedom to live and work permanently in the U.S. Because new regulations significantly affect how foreign nationals may qualify for permanent residence, our law firm provides up to date information about these changes.

As a general overview, immigrants to the U.S. are divided into two categories of permanent immigrant visas: individuals who may acquire permanent residency without numerical limitation and individuals who are subject to a yearly limitation.

For the second category of permanent immigrant visas, there are three sub-categories: family-based; employment-based; and diversity immigrants.

The following information provides a high-level overview of the most commonly utilized permanent immigration visa options. Please click on the visa type from the list below to get to the correct page featuring that topic.

[Employment-based Immigration](#)

[Family-based Immigration](#)

[Other Permanent Immigration Visas](#)

Disclaimer: The content of this fact sheet is not intended to substitute accurate advice which is relevant to all of the facts and circumstances of your case. We recommend you seek a detailed legal consultation for that purpose.

To discuss your questions further and review your situation with us, please contact us for a consultation at: info@naidoolaw.com or call us at: 972-997-7233.

One of the most widely used methods to obtain legal permanent residence in the U.S. is through an employment-based immigrant visa petition, which allows for five classifications commonly referred to as preferences.

EB-1: First Preference, Priority Workers

EB-2: Second Preference, Professionals with Advanced Degrees or Persons with Exceptional Ability

EB-3: Third Preference, Skilled or Professional Workers

EB-4: Fourth Preference, Special Immigrants

EB-5: Fifth Preference, Immigrant Investors

EB-1 Priority Workers:

The EB-1 classification is open for 3 types of foreign nationals that:

1. Possess Extraordinary Ability in the Sciences, Arts, Education, Business or Athletics, or
2. Are Outstanding Professors or Researchers, or
3. Managers and Executives of multinational business entities who are on international transfer to the U.S.

Persons in this category are allowed to file for permanent residency (green cards) and do not need to file labor certification application. Thus, beneficiaries in this group enjoy the highest priority among all employment-based green cards.

Individuals with extraordinary ability may self-petition. All other EB-1 petitions should be filed by your employer.

Either you or your employer should file-in Form I-140, the Petition for Alien Worker with the USCIS Regional Service Center that has jurisdiction over the location of your employment. This form should contain all necessary documents and evidence. Labor certification is not required for EB-1 petitions.

EB-2 Professionals:

The EB-2 classification is open to 3 types of foreign nationals that:

1. have exceptional ability in the sciences, arts or business, or
2. are advanced degree professionals, or
3. are qualified alien physicians who will practice medicine in an area of the U.S., which is underserved.

Your employer should file-in Form I-140, the Petition for Alien Worker with the USCIS Regional Service Center that has jurisdiction over the location of your employment. This form should contain all necessary documents and evidence. Perm Labor Certification is also required for most EB-2 petitions.

Individuals with exceptional ability in the sciences, arts or business may apply to waive the labor certification requirement if a waiver would be in the national interest.

EB-3 Skilled or Professional Workers:

The EB-3 classification is open to foreign nationals with at least two years of experience as skilled workers, professionals with bachelors' degrees and the following:

1. Professionals with bachelor's degrees who do not qualify for either categories EB-1 and EB-2, or
2. Aliens w/ at least two years of experience as skilled workers, professionals with a baccalaureate degree, or
3. Unskilled Workers who can contribute abilities unavailable in the U.S.

Your employer should file-in USCIS Form I-140 Petition for Alien Workers with the USCIS Regional Service Center that has jurisdiction over the location of your employment. EB-3 petitions also require an approved Perm Labor Certification from the Department of Labor.

EB-4 Special Immigrants:

The EB-4 classification includes two groups of foreign nationals:

1. Religious workers – primarily ministers of religion.
2. Employees and former employees of the U.S. Government abroad who are foreign nationals.

This category must file Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant, concurrently with a host of other forms depending on their needs with the USCIS serving the area where the immigrant will work.

If you are a religious worker, your employer should file a USCIS Form I-360 with the USCIS Regional Service Center that has jurisdiction over the location of your employment. You should have been working with your religious organization for at least two years. You should be entering to work in one of the following capacities:

1. As a minister or priest of your religious denomination.
2. In a professional capacity in a religious vocation or occupation for your religious organization (this requires a bachelor's degree or its equivalent).
3. In a religious vocation or occupation for your religious organization or its nonprofit affiliate.

EB-5 Immigrant Investors:

Under U.S. immigration law, qualified individuals seeking permanent residence on the basis of their engagement in a new commercial enterprise can do so by applying for investor visas (i.e., EB-5 visas).

Eligibility

Permanent resident status based on EB-5 eligibility is available to investors, either alone or coming with their spouse and unmarried children. Eligible application will need to meet the following requirements:

1. Establishment of a business.
2. Active involvement in the business.
3. Investment of at least \$1 million in the business (\$500,000 is acceptable in certain designated areas) which can be in cash, equipment, inventory, etc.
4. Benefiting U.S. economy through creation of full-time employment for not fewer than 10 U.S. workers

Permanent Residence

Qualified EB-5 investors are subject to “conditional” permanent residence for a two-year period. During the two year’s conditional period, the EB-5 investor must continuously meet the legal requirements for EB-5 investors. A Form I-829 must be filed to remove the condition 90 days before the second anniversary of the EB-5 investor’s admission to the U.S. as a conditional permanent resident.

Overview

Permanent immigration in the U.S. comes with a variety of rights and privileges. One method to obtaining lawful permanent residency is through a relative who is either a citizen of the U.S. or a lawful permanent resident.

There are two categories for unlimited family-based immigration:

1. Immediate Relatives of U.S. Citizens (IR): A spouse, widow or unmarried child under the age of 21 of a U.S. citizen. This category also includes parents of adult U.S. citizens
2. Returning Residents (SB): Immigrants who previously lived in the U.S. under lawful permanent resident status. These individuals should be returning to live in the U.S. after being abroad for more than one year.

There are four preference categories for limited family-based immigration:

1. First Preference: Unmarried children over the age of 21 of U.S. citizens.
2. Second Preference: Spouses of lawful permanent residents, their unmarried children under the age of 21, and unmarried children under the age of 21 of lawful permanent residents.
3. Third Preference: Married children of U.S. citizens.
4. Fourth Preference: Siblings of adult U.S. citizens.

Your relative should first submit an immigrant visa petition, I-130 Petition for Alien Relative. This form should be accompanied by proof of your relationship to your relative.

Upon approval of this petition, the Department of State will determine if an immigrant visa number is available for you. When a number becomes available, you may apply for assignment of that number.

K Visa:

Under the Legal Immigration Family Equity Act (LIFE Act) and its amendments, the K visa allows the spouse and unmarried children (below the age of 21 years) of a U.S. citizen to enter, live and work in the U.S. as nonimmigrants until they receive Lawful Permanent Resident status. The spouse is given a K-3 visa and the children are given a K-4 visas.

You can receive a K-3 (Spouse) visa if:

- ✓ You have married a U.S. citizen.
- ✓ Your U.S. citizen spouse has filed Form I-130 (Petition for Alien Relative) with USCIS for you.
- ✓ You want to enter the U.S. to wait for the approval of the petition to become a Lawful Permanent Resident.
- ✓ You have forwarded an approved Form I-129F (Petition for Alien Fiancé) to the U.S. Consulate (which issues immigrant visas) in the country where you were married. If you were married in the U.S., the approved petition has to be forwarded to a consulate which has jurisdiction over the area where you reside.

You can receive a K-4 (Child) visa if:

- ✓ You are unmarried and under the age of 21 years.
- ✓ You are the child of a foreign national who is eligible for a K-3 visa.

Asylum or Refugee Immigration:

U.S. immigration allows people who have well-founded fear of persecution to seek asylum or refugee status that will allow them to obtain permanent residency (green card). However, to qualify the applicant needs to belong to one or more of the five categories of people who have well-founded fear of persecution because of his/her:

1. race,
2. nationality,
3. religion,
4. membership of a particular social group or because he or she is identified with a particular social group,
5. political opinion that will subject him to persecution.

Also, the law requires that an applicant must apply within 1 year of arriving in the U.S. otherwise; applicant must show either extraordinary circumstances or changed circumstances in his or her home country.

You should apply for lawful permanent residency on Asylee Form I-485, application to Register Permanent Residence of Adjust Status. You must have been in the U.S. under asylee status for at least one year.

Diversity Visa “Green Card” Lottery:

Each year since 1994, the Diversity Lottery Program allocates 55,000 new immigrant visas each year for individuals from underrepresented nations. A nation is considered underrepresented if less than 50,000 people from that nation immigrated to the U.S. in the past five years.

To be eligible for the Diversity Lottery Program, you should have either a high school education, its equivalent or two years of work experience within the last five years in a job which demands two years training.

You or your spouse must be a native of a nation eligible for the Diversity Lottery Program. You may be eligible if your parent was born in a country eligible to participate in the lottery.

The Diversity Lottery Program randomly picks the 55,000 visa candidates. Individuals are chosen to receive the visa by chance, not by merit.

Each year, the Department of State publishes specific instructions on how to apply for the Diversity Visa. These instructions are typically made available in August, and the registration period usually begins in early October.