

TEMPORARY IMMIGRATION FACT SHEET

An Introduction to Temporary Immigration

The non-immigrant visa classification covers a broad range of visas used to enter the United States for work, pleasure or study. Some visas are considered ‘dual status’; you may attempt to obtain permanent residency (a green card) while under that classification. Most non-immigrant visas, however, require you establish the demonstration of non-immigrant intent. This means you should demonstrate that you have a permanent residence in your home country that you have no intention of abandoning.

The duration of time you may spend in the U.S. can range from a few days to several years, depending on the visa. In most situations, your spouse and unmarried children under the age of 21 may accompany you on a derivative visa.

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

[Work Visas](#)

[Other 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.

H-1B Visa:

The H-1B Visa has become a somewhat mythical visa category over the years. It's the visa everybody wants and thus it is the visa that receives the most attention. The laws regarding the H-1B Visa constantly change; interested candidates should stay informed about the frequent updates to the law.

The H-1B Visa allows foreign workers in "specialty occupations" to enter the U.S. and work in a variety of fields, including Architecture, Engineering, Modeling, Medicine, and Health. This visa is sometimes used to hire workers for the Department of Defense. The H-1B Visa offers a wide range of employment possibilities and is a substantial first step toward permanent immigration.

This visa is issued in three-year increments, for a maximum of six years.

Applicants must have a U.S. bachelor's degree in their specialty or a license in fields that require licensing, such as teaching or pharmacy. The visa is not self-petitioned, which means you will need an employer to sponsor you. You can stay in the U.S. for up to six years, after which you are required to leave the U.S. for at least one year before being eligible again.

Your spouse and unmarried children under the age of 21 may join you in the U.S. under H-4 status. However, they are not permitted to work unless they personally qualify for a work visa.

H-2A Visa:

The H-2A Visa is the most functional of visa categories. It fills a specific need for the U.S. and for foreign nationals. The visa allows foreign workers entry to the U.S. to work in agriculture. Truthfully, the visa hasn't garnered much support in the community. Growers don't like the limits of the visa and advocates don't believe the laws give enough support to workers.

The H-2A visa is not self-petitioned. Employers must apply on behalf of their employees. The employer can be self-employed, a partnership, corporation or agricultural association. An agent may also apply on behalf of the employer. Workers' spouses and unmarried children under the age of 21 are allowed to join them in the U.S. under the H-4 status. Dependents are not permitted to work, unless they personally qualify for a work visa.

H-2B Visa:

The H-2B visa is reserved for individuals who will be performing temporary nonagricultural services or labor. The U.S. employer's need for the service or labor should be a one-time occurrence, a seasonal need, a peak-load need or an intermittent need. Similar to the H-2A visa, the H-2B visa also requires a U.S. employer to submit a temporary labor certification to the Department of Labor demonstrating a shortage of U.S. workers.

Spouses and unmarried children under age 21 are allowed to accompany or join the H-2B worker, in H-4 dependent status. However, they cannot work unless they independently qualify for a work visa. Spouses and children are permitted to attend school while in H-4 status.

L-1 Visa:

Businesses that function both in the United States and in their home country gain the benefits of the best of both areas. The L-1 visa is open to international organizations with offices in the U.S., and who transfer employees to the U.S. office for temporary periods of time. This visa is sometimes referred to as the 'intra-company transferee' visa.

To obtain an L-1 visa, you must be able to prove that you have worked for the non-U.S. company for at least one full year within the last three years as an executive, manager or employee with specialized knowledge. The L-1 visa enables the transfer of managers, executives and specialized knowledge personnel to a U.S. office, subsidiary or affiliated company. This visa comes in the following categories:

- L-1A visas – for executives and managers
- L-1B visas – for personnel with specialized knowledge.

Your spouse and unmarried children under the age of 21 are allowed to join you in the U.S., under L-2 status. The L-2 spouse is allowed to work provided that s/he first obtains employment authorization from the USCIS. L-2 spouses as well as L-2 children can attend school or college. Servants may be eligible for a B-1 visa with work authorization.

TN Visa:

Under the North American Free Trade Agreement (NAFTA), certain citizens of Canada and Mexico are eligible to enter the US under the nonimmigrant TN status. The TN Visa enables Canadian and Mexican citizens to temporarily work in U.S. in a NAFTA-approved professional occupation.

The following are the requirements to be eligible for the TN Visa:

- ✓ The profession be on the NAFTA list.
- ✓ The foreign national must possess the necessary training for that profession.
- ✓ The proposed position must be classified as a professional position.
- ✓ The foreign national must work for a U.S. employer.

Spouses and/or unmarried children under the age of 21 are eligible to enter the U.S. under the derivative TD visas. Family members are not required to be Canadian or Mexican citizens, and are eligible to remain in the U.S. for the duration of the TN Visa holder's stay. They may either accompany the TN Visa holder to the U.S. or come at a later time.

Canadian applicants may apply for the TN Visa either at a port of entry or at a preclearance station and must provide the following information:

- ✓ Proof of Canadian citizenship.
- ✓ An offer of employment letter from the sponsoring employer detailing the duties to be performed.
- ✓ Copies of all relevant college degrees and employment records. This data should prove the applicant is sufficiently qualified for the proposed position.
- ✓ A processing fee.

Mexican citizens must apply for the TN visa at a U.S. Consulate and must provide the following information:

- ✓ A valid passport
- ✓ Visa application form
- ✓ Letter of employment from a U.S. employer indicating the position and why the position requires a professional
- ✓ Evidence that the applicant is a professional

E-1 Visa

U.S. immigration policy supports investors and foreign commerce in a variety of ways. The E-1 visa is one method for ensuring healthy commerce with the world. The E-1 Visa is issued to individuals known as ‘treaty traders’. A treaty trader is defined as a national of a country with which the United States maintains a treaty of commerce and navigation.

You should be coming to the U.S. to carry on substantial trade, or to develop and direct the operations of a business in which you have invested or will soon invest a substantial amount of capital. You must also be a national of a treaty country and you must be involved in international trade. Your spouse and children may join you under the same status. Your employees, or the employees of your treaty company, may also receive E-1 visas.

You may apply for an E-1 visa at a U.S. Consulate in your country. We recommend you do not apply at a U.S. Consular Office outside of your permanent residence, since that process is more difficult.

E-2 Visa:

U.S. immigration policy supports investors and foreign commerce in a variety of ways. The E-2 visa is one way the U.S. ensures healthy commerce with the world. The E-2 visa is issued to individuals known as ‘treaty investors’. A treaty investor is defined as a national of a country with which the United States maintains a treaty of commerce and navigation.

You should be coming to the U.S. to partake in a substantial investment. Your investment may be less than that required for the EB-5 (\$500,000). However, if the investment becomes equal or greater than \$500,000, you may petition for permanent immigration status. Your spouse and/or children under the age of 21 may accompany you under E-2 status. Your employees may also be eligible for the E-2 Visa.

You may apply for an E-2 visa at a U.S. Consulate in your country. We recommend you do not apply at a U.S. Consular Office outside of your permanent residence, since that process is more difficult.

K-1 Visa

A fiancé (e) of an American citizen who will be entering the U.S. solely to marry that American citizen should apply for a K-1 Visa. The marriage should take place within 90 days of entering the U.S. Minor children of the fiancées can apply for a K-2 status and enter the U.S. The K-1 Visa enables one to apply for conditional permanent resident status.

The American citizen should first file a petition, Form I-129F, Petition for Alien Fiancé(e), with the USCIS having jurisdiction over the place of his/her residence in the U.S. The approved petition will then be forwarded by USCIS to the American consular office where the beneficiary will apply for his/her visa.