

COMMON NONIMMIGRANT & IMMIGRANT VISAS

for Investors/Business Professionals

NONIMMIGRANT VISAS

Temporary Visitor for Business (B-1)

B-1 business visas are available to persons coming to the United States temporarily to conduct business on behalf of their foreign employer. They may not engage in local labor for hire, must be compensated by their foreign employer (expenses are permitted) and must maintain a permanent residence overseas which they have no intention of abandoning.

B-1 visa holders may be admitted for an initial period of up to one year, and may be granted extensions in six-month increments. Under a special program for nationals of certain countries, the Visa Waiver Program allows business visitors to apply for admission to the United States without a visa for up to 90 days, with certain restrictions applied.

Treaty Trader and Treaty Investor (E-1/E-2)

Treaties between the United States and many countries allow foreign nationals to come to the United States to conduct trade or to manage substantial investments (no fixed dollar amount). Those qualifying for the E-1 (Trader) or E-2 (Investor) visas can pursue long-term business objectives using these practical visas. The list of qualifying countries changes as the United States Congress ratifies new trade treaties.

A person may be issued an E-1 Treaty Trader visa if:

- The individual or the firm has the nationality of the treaty country (at least half of the company must be owned by nationals of the treaty country);
- The individual is either the principal trader, who is coming to the United States to engage in substantial trade or, an executive, manager or employee with special skills essential to the company.

A person may be issued an E-2 Treaty Investor visa if:

- The individual or the firm has the nationality of the treaty country (at least half of the company must be owned by nationals of the treaty country);
- The individual or the company has made or is in the process of making a substantial investment in a business in the United States;
- The individual is either the principal investor, who will direct and develop the enterprise, or an executive, manager or employee with special skills essential to the company.



LAW OFFICE OF
MICHAEL B. DYE

120 Vantis Suite 300 • Aliso Viejo, CA 92656 • (949) 540-6760 • mike@mikedyelaw.com



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Investors from qualifying countries may apply for an E2 visa in order to 'Direct and Develop' their investment. They may also apply for E2 visas for key managerial and specialist employees. In contrast to the L1 visa, there is no requirement that such employees have worked for the Investor for at least one year in the last three, nor is it necessary for the Investor to continue operations outside the USA while the Investor or his/her employees are in the USA.

E visas are typically valid for one to five years with unlimited renewals (pending requirements have been satisfied).

Australian in Specialty Occupation (E-3)

The E-3 is a new visa for Australian nationals to work in specialty occupations in the U.S. It has many advantages over the other types of working visas, including the ability for spouses of E-3 recipients to apply for work authorization. The new E-3 visa classification currently applies only to nationals of Australia as well as their spouses and children.

Intracompany Transfer (L-1)

This visa classification is available for an employee of a company. Only those companies that exactly meet the U.S. Citizenship and Immigration Services (USCIS) definitions of a parent, branch, subsidiary or affiliate qualify to petition for an L-1 intra-company transferee visa.

There are provisions to allow a new office to open in the United States provided that evidence is submitted to the USCIS to prove that the new office has a suitable place to do business, a qualifying business structure, and that the employer has the ability to pay the employee and to begin doing business in the United States.

A key qualification for all employees is employment abroad by a qualifying foreign employer for one continuous year within the last three years preceding the time of the employee's application for admission into the United States. Intracompany transferees are executives, managers and employees with specialized knowledge.

IMMIGRANT VISAS

Employment-based Immigrant Investor Visa (EB-5)

Of the various types of employment-based permanent resident visas, the employment-based fifth preference visa (EB-5) is available to foreign investors who wish to make a capital investment in a commercial enterprise and obtain permanent residence in the United States. The amount of the investment must be at least one million dollars, unless the investment is to be in a targeted employment area, in which case the investment need only be five hundred thousand dollars. In all cases, the investment must also create full-time employment for at least 10 U.S. citizens or other legal residents, not including the investor or members of the investor's family.

