

A QUICK GUIDE TO
APPLYING FOR AN

E2 INVESTOR VISA



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Intro:

Individuals the world over are constantly interested in coming to establish a business in the United States. Consequently, they seek knowledge with respect to the most effectual and straightforward method to complete the process. One of the more interesting visas that permits any business minded investor to enter the United States and establish their business is the E-2 Visa.

In this e-Book, we will explain and expound on exactly what an E-2 Treaty Investor Visa is, and the step-by-step instructions to follow in order to obtain and using one.

What is a an E2 Investor Visa, and Who Can Qualify?

Several years ago the United States entered into various treaties with numerous countries in order for an E-2 Visa to permit business minded individuals from countries to work in the U.S. for a business in which they have invested.

Furthermore, the E-2 Treaty Investor Visa is a non-immigrant visa that lawfully permits foreign entrepreneurs from treaty nations to enter the U. S. and carry out both investment and trade activities. Investment activities consist of the formation of a new business. That stated, the investment must be considerably relational to the entire investment, which is to say typically more than half (50%) of the total value of the enterprise, or, if a new business, a monetary sum that is typically considered needed to launch the business enterprise.

This visa is for people entering the U.S. to finance a significant sum of capital or to direct and develop the business operations of an entity for which the person has previously invested capital. An individual may be eligible as the primary investor or as an employee of an investor business having the same nationality. There are no numerical restrictions on E-2 entries.

Note: Do not mistake the E-2 Treaty Investor Visas with Green Cards through investment. The E-2 Visa is a non-immigrant visa, thus temporary, while on the other hand Green Cards are permanent providing the immigrant abides by the law.



What follows is a brief summary regarding the positives and negatives with respect to the E-2 Visa:

- The treaty investor and specific employees may legally be employed in the United States for a U.S. based business in which a significant cash investment has been made by the investor, as long as the country the investor comes from is a national and the country maintains a treaty with the United States.
- While remaining in the U.S., the treaty investor or employee is restricted to working exclusively for the employer or self-owned business that acted as the E-2 Visa sponsor. Under no circumstances may an investor or employee work for another business entity at any time.
- Dependent on an individual's country of origin, initial visas may last for up to five years with unlimited extensions. However, the duration of the visa is dependent on the visa "reciprocity" agreement between the U.S. and the individual's country, and upon the sustainability of the business. (Note: new companies receive briefer validity periods.)
- When E Visa holders (that is, employees or family members) enter the U.S., they obtain a period of stay of up to two years. However, they may lengthen their stay while remaining in the U.S when filling for the extension of the visa. Finally, this visa normally needs to be renewed every two years. Please note that there is no limitation regarding how many times an individual may renew their E Visa.
- Since there exists no dedicated dependent visa class for E-2 visas, wives and/or husbands, and unmarried children under the age of 21, may take delivery of derivative E-2 visas in order to accompany the primary immigrant.
- Dependents may pursue employment opportunities in the United States by filling out and submitting Form I-765, Application for Employment Authorization. Individuals and kids under the age of 21 are ineligible to apply for employment; only the spouse of the E-2 holder may do so. Much like the well-known E-1 Visa, some people refer to the E-2 visa as the second best opportunity to achieve U.S. permanent residence. This is because it is possible to acquire through self-employment, and because it comes with an infinite amount of extensions. Additionally, there are no yearly limitations regarding the number of E-2 Visas that may be allotted to eligible aspirants.



Mandatory Requirements:

- Every applicant for the visa is obligated to pay a certain depending on where the application take place - if applying while in your home country you will need to pay the local U.S. embassy a fee of approximately (\$205) for the interview (for you and each family member that accompanies you to the U.S.) - if you are already in the United States you can do a change of status from your current status to the E-2. You will need to pay USCIS the following fees \$460 - for the main applicant (mandatory) \$1225 - premium processing to expedite the response (optional) \$ 370 - for spouse including children under the age of 21
- The investor, either a person, partnership or corporate entity, must be a citizen of a treaty trade/investment country.
- If the investor will need to own 50% of the newly established company
- The investment funds and the applicant must come from the same Treaty Country.
- The business in which investment is being made must provide job opportunities or make a significant economic impact in the United States. The business should not be established solely for the purpose of earning a living for the applicant and his or her family.
- The investment must come from the investor. The money must be "at risk". Therefore, a loan that is secured by the assets of the business itself will not qualify, that is, if loans have been taken out, they must be secured or guaranteed by the investor personally, rather than by the assets of the corporation.
- The investment must be substantial, a standard which depends on the nature of the enterprise. Generally, investment funds or assets must be committed and irrevocable. The funds or assets must be deemed sufficient to ensure the success of business operations.
- The investment must be real and active this means that a bank account, undeveloped land or stocks, or a not-for-profit organization will not be sufficient to be considered.
- The enterprise must be a real, operating commercial enterprise or active entrepreneurial undertaking productive of some service or commodity. Paper organizations, speculative, or idle investments do not qualify as real operating enterprises or active entrepreneurial undertakings. Funds in a bank account are not considered at risk since they have not been committed.
- These types of visas are for managerial and supervisory personnel; therefore, unskilled workers and workers with ordinary skills do not usually qualify for such an E-2. However, other personnel who have special qualifications that make the services to be rendered essential to the efficient operation of the enterprise may also qualify for such this type of visa.
- Aliens who qualify for treaty investor status include the principal investor who develops and directs the enterprise. If you are not the principal investor, you must be considered an essential employee, employed in a supervisory, executive, or highly specialized skill capacity.

E-2 Visa Countries:

E-2 visas are available to citizens of certain countries. The following countries have treaties with the United States that allow qualifying nationals to apply for Treaty Trader status. You can also review whether your country has such a treaty in force on a [U.S. State Department web page listing the treaty countries](#):

In general, the prospective applicant does not need to be presently living in the country of citizenship in order to qualify for an E-2 visa. Check with the U.S. consulate in your home country to determine whether you must be.

Albania	Czech Republic	Kosovo	Romania
Argentina	Denmark	Kyrgyzstan	Serbia
Armenia	Ecuador	Latvia	Senegal
Australia	Egypt	Liberia	Singapore
Austria	Estonia	Lithuania	Slovak Republic
Azerbaijan	Ethiopia	Luxembourg	Slovenia
Bahrain	Finland	Macedonia	Spain
Bangladesh	France	Mexico	Sri Lanka
Belgium	Georgia	Moldova	Suriname
Bolivia	Germany	Mongolia	Sweden
Bosnia and Herzegovina	Grenada	Montenegro	Switzerland
Bulgaria	Honduras	Morocco	Thailand
Cameroon	Iran	The Netherlands	Togo
Canada	Ireland	Norway	Trinidad and Tobago
Chile	Italy	Oman	Tunisia
China (Taiwan)	Jamaica	Pakistan	Turkey
Colombia	Japan	Panama	Ukraine
Congo (Brazzaville and Kinshasa)	Jordan	Paraguay	United Kingdom
Costa Rica	Kazakhstan	Philippines	Yugoslavia
Croatia	South Korea	Poland	

Duration of Stay and Extensions:

A treaty trader may be permitted entry for an initial stay in the U.S. not to exceed two (2) years. The husband or wife, as well as minor children accompanying the principal treaty trader, will be admitted for the period during which the principal is in valid treaty trader status.

Extensions for staying may be granted in increases of two (2) years, with no determined limitation regarding the total period of stay for the immigrant. A treaty trader or treaty investor in valid E status may apply for an extension of stay by filling out and submitting Form I-129 and E Supplement, for an extension of stay with the necessary accompanying documents. Again, there are no quota restrictions for E-2 visas.

Basic Steps to Applying for an E2 Investor Visa:

If you believe you are a good candidate to apply for the E2 Investor Visa, the initial step is to come to the United States once you know the business that you want to conduct, and form a US-based registered company. This can either be an LLC (limited liability company), or a C-Corp (regular closed corporation.)

The E-2 Visa is an interesting Visa in the sense that it can apply to any business. It may be a restaurant, a marketing firm or car rental business etc. that is, any business that allows the investor to operate on an executive level a company that is real and not marginal.

It is vital that the investment is not to be marginal, the marginality of the business depends on the type of business. For example, if you're going to open a restaurant business in Los Angeles, the amount of investment will vary and be different than starting a business in Ohio.

When the company is formed, the next step is to open a corporate bank account. It is important to open the bank account for the company after the company is formed. You need to have a corporate bank account to accept any funds coming from a foreign country. Once the bank account is established, you can move the money from the foreign country into the corporate bank account to be able to begin using those funds for the purpose of investing. You will need to account for the money's origin, for example did it come from a property sale, inheritance, did you accumulate the amount while working somewhere. All of the relevant documents as to where the investment came from will need to be translated and presented.

Once the money is in the corporate bank account, you can begin using it for many things, including: locating a lease for your business, buying equipment, handle staff, buy marketing materials, and so on. All of these things occur during an investment period, which is required for the E-2 Visa. This particular period may be anywhere from 60 to 90 days. Once the investment period is completed, you are ready to file the case with the U.S. Embassy of your treaty country. Alternatively, if you're in the United States, you can do a change of status to the E-Visa.

In terms of a success rate, there is nearly an 80% approval rate. There may be some situations in which the case is delayed at the U.S. Embassy or with USCIS due to the them wanting more information on the source of the funds, that is, how did the money come to this account? They may also seek to know whether the business is at risk. In some instances, cases become delayed because the investor did not use the money properly, or there was no evidence as to how the money arrived to the bank account from the foreign country. These are important facts to realize as you prepare the E-Visa and ensure that this process flows smoothly during the progression of your case.

Required Documents:

If you decide to apply for an E2 Investor Visa, the following is a list of some documents that should be included in the E-2 visa petition. The list is not all inclusive and specific aspects pertaining to your application should be discussed with a licensed attorney in detail. Additional documents may be necessary depending on the specific case. The list includes but is not limited to the following items:

Beneficiary's Biographical Documents

- A valid passport for travel to the U.S. with a validity date at least six months beyond the alien's intended period of stay;
- Any previous U.S. visas issued to the applicant with a corresponding I-94;
- Two photographs for each member listed in the visa application.(If going through consulate but not for USCIS)

Supporting Documents May Include

- Documents that establish the identity of the company's nationality;
- A letter from an employer detailing the aliens position, and specialized qualifications and skills that make his/her services essential to the efficient operation of the enterprise;
- Resume;
- Copies of Degrees.

Applying at a U.S. Consulate Abroad

- Form DS -160, Nonimmigrant Visa Application (if applying at a U.S. Consulate abroad);
- Form DS-156E, Treaty Trader Application (if applying at a U.S. Consulate abroad);
- Application fee/payment receipt.

OR

Applying while in the U.S. through USCIS

- Form I-129 Petition for a Nonimmigrant Worker with E supplement
- Form I-907 Request for Premium Processing Service (optional to expedite the process)
- Form I-539 Application To Extend/ Change Nonimmigrant Status (for any family members present at the time of filling in the US)

If Establishing a New U.S. Business

- Articles of incorporation/organization filed with the Secretary of State;
- Proof of Employer Identification Number with the IRS;
- Corporate Bank account;
- Required business license (if applicable);
- City Tax License;
- Seller's permit (if applicable by law);
- Corporate documents: Bylaws/ Operating Agreement, organizational minutes, ledger and stock certificates issued.



If Acquiring an Existing Business

- Articles filed and corporate documents;
- Purchase agreement;
- Transfer of ownership / stock certificates and updated ledger;
- Tax returns/Federal and State (last 4 quarters);
- Financial statements;
- Loss and Profit Balance;
- Payroll statements;
- List of employees.

Evidence of Investment

- Lease agreement for the business premises (corporate offices, store, restaurant);
- Receipt from payment of the rent or lease;
- Utility bills;
- Proof that you set up a telephone, internet and electricity in your new location (bills or account confirmation);
- Invoices and receipts of all purchases made for the business (decoration, equipment, tools, reparation, renovation, inventory etc.);
- Client's Orders / Letters of Intent to conduct business;
- Evidence of assets of business (if applicable);
- Contract entered into with vendors (if applicable);
- Proof of payroll set up;
- Color photographs of business;
- List of employees, social security numbers, legal status, and positions;
- Business plan/projections.

Source of Money

- Foreign bank statements 4 to 5 months prior to the wire transfer;
- Foreign Wire Transfer(s), copies of the original order for the wire;
- Foreign bank statement(s) showing money being withdrawn (wired);
- Property deed(s) if loan money is involved;
- Letter of employer, family member or any relevant person to confirm the source of funds;
- Personal Statement stating the source of the money, that is, showing where the money came from.

Evidence of Wire Transfer to the US

- Actual wire transfer/bank report (copy) showing money entering the United States and to your U.S. Bank;
- Bank statement(s) showing deposit(s);
- Current bank statement(s) (9 to 12 months of statements), and if a new start-up business, all bank statements.



The Application Process:

Visa applicants should normally apply at the U.S. Embassy or Consulate recognized by their country or place of permanent residence. As part of the visa application process, an interview at the embassy consular section is required for visa applicants aged 14 through 79. Individuals aged 13 and below, and aged 80 and above, typically do not require an interview, unless otherwise requested by the embassy or consulate.

Throughout the visa application process, and typically at the interview, an ink-free, digital fingerprint scan will be taken prior to the actual interview. Some applicants will require additional screening and will be notified when they apply.

The E-2 visa application process varies from Consular Posts from one country to another, as there is often differences in policies and visa processing procedures.

If applying while in the United States and application must be with USCIS before the expiration of ones current visa status for the principle applicant and the family members intended to be included on the application. Unlike the consulate if filed with USCIS there is an option to expedite the processing time of the case for an additional fee of \$1225.



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