

E-2 Nonimmigrant Visa Treaty Investor and Treaty Investment Employee

Treaty Investment Visa

The E-2 nonimmigrant visa authorizes a citizen of a treaty country to oversee their investment in the U.S. *or* work with a U.S. business which is at least 50% owned by citizens of the treaty country. The visa can be extended every two (2) years without limitation on the total period of stay. The spouse and minor children may accompany or follow to join the E-2 principal. Employees from the treaty country, including executives, managers and essential employees are eligible for the E-2 visa.

E-2 Treaty Investor Visa Requirements

The E-2 visa requires **(1)** a treaty allowing investment in the U.S between the U.S. and the country of which the person a national; **(2)** the investor is a treaty national or a qualifying organization (50% or more owned by treaty nationals); **(3)** the applicant is actively in the process of investing a substantial amount of capital; **(4)** entering the U.S. to develop and direct the investment, *or* entering the U.S. to work in an executive, managerial or “essential employee” capacity; and **(5)** the U.S. investment is fifty percent (50%) owned by a treaty national or qualifying organization.

Sample Treaty Countries

The following countries have investment treaties with the United States that qualify for the E-2 visa. Many other countries qualify for the treaty investment visa.

Argentina; Australia; Austria; Bangladesh; Canada; Colombia; Ecuador; Egypt; Finland; France; Germany; Greece; Iran, Ireland; Italy; Jamaica; Japan; Jordan; Kazakhstan; Korea; Mexico; the Netherlands; Norway; Pakistan; the Philippines; Romania; Sweden; Switzerland; Taiwan, Thailand; Tunisia; Turkey; the United Kingdom; and many more.

Approval of the Visa

The U.S. Department of State (DOS), through U.S. Consulates, has jurisdiction to approve and issue the E-2. The U.S. Citizen and Immigration Service (USCIS) has jurisdiction to approve the change of status to E-2 visa classification and extensions of E-2 status while in the US.

The USCIS issues an approval notice as evidence of the principal investor or key employee’s E-2 status. The approval notice allows the employee to work for the petitioning company only. Dependents are issued approval notices as evidence of their E-2 status. The U.S. Consulate issues the E-2 visa in the passport as evidence of the principal investor or key employee’s E-2 status. The visa in the passport is annotated with the name of the petitioning company.

Work Authorization for Spouse

The spouses of E visa holders are allowed work authorization incident to their E dependent visa status in the U.S. Although not required, spouses of E visa holders may apply for a work authorization document with the USCIS Service Center and pay the applicable filing fees. The investor, employees and dependents must have E-2 visas in their passports for travel back to the U.S. This application is made at U.S. consulates and is referred to as visa consular processing.

“Visa” for international travel or “Change of Status” in the United States

To travel outside the US and return in the E-2 visa classification, you must apply for and be issued the E-2 visa, usually from the US Embassy or Consulate in your home country. If you are in the US in a different visa classification, you may have the option to file to “change status,” but this is not a visa to allow for travel.

E-2 Nonimmigrant Visa Document List

E-2 Applicant

- Résumé (with detailed description of job duties and dates of employment)
- Diplomas, degrees, and certificates
- Evidence of nonimmigrant status if present in the U.S. (visa, I-94, approval notices)
- Passports of E-2 Applicant and all dependents (passports valid for at least 6 months)

U.S. Company or Business

- Certificate of Incorporation and Articles of Incorporation
- Stock certificates (showing total ownership of the company)
- Business sale agreement or stock purchase agreement

- Business information or business plan (history, facilities, products, employees, clients)
- Business appraisal, business valuation or prospectus
- Business registration, business license, business permits, DBA’s
- Commercial lease
- Brochures, catalogs, promotional and product literature, and advertisements
- Invoices, contracts, bills of lading, and other business documentation
- Photographs of the business (if applicable)

- Corporate tax returns (IRS 1120, IRS 941, TWC C-3)
- Financial statements (balance sheet, income statement (P&L), cash flow, payroll)
- Bank account statements
- Bank wire transfers; certified checks or other documentation of investment in the U.S. (receipts of property sales, saving account statements, etc.)

Foreign Company or Business (if applicable)

- Certificate of Incorporation and Articles of Incorporation
- Business information (history, facilities, products, number of employees, clients)
- Business registration, business license, business permits
- Commercial lease
- Brochures, catalogs, promotional and product literature, and advertisements
- Invoices, contracts, bills of lading and other business documentation
- Photographs of the business (if applicable)

- Corporate tax returns
- Financial statements (balance sheet, income statement (P&L), cash flow, payroll)
- Bank account statements

Fong♦Ilagan, LLP works with clients to simplify U.S. immigration. To discuss your case with an experienced board-certified attorney, please contact our office at 713.772.2300.