
**DOING BUSINESS IN THE UNITED STATES?
NONIMMIGRANT VISA CATEGORIES COMMONLY USED
BY INTERNATIONAL CORPORATIONS**

Basic Requirements

Foreign nationals must engage in an "acceptable" B-1 activity relating to business. Generally, engaging in productive work is not permissible.

The principal benefit of the business activity must accrue to the foreign national or corporate entity abroad.

Visitors may not receive a salary or direct payments from a U.S. source.

Visitors must be able to demonstrate that they will be staying in the United States only for a limited period of time, and they have a foreign residence that will not be abandoned.

Examples of "Acceptable" B-1 Activities

Engaging in sales activities or contract negotiations, or taking orders from customers.

Acting as a purchasing agent for a foreign employer to procure U.S. goods, raw materials, or components.

"Consulting" with U.S. business associates; observing business operations; or attending conferences, conventions, or board meetings.

If Canadian, engaging in additional activities listed under the North American Free Trade Agreement (NAFTA).

Application Process

Application for a B-1 visa is made directly with a U.S. Consulate abroad, except for Canadians, who may apply for entry at a U.S. port of entry.

Canadians may apply for B-1 status on the intended day of entry at any U.S. Class "A" port of entry (such as Blaine, Washington or Sumas, Washington); a U.S. pre-flight clearance station in Canada (such as Vancouver International Airport in Vancouver or Dorval Airport in Montreal); or a U.S. airport that handles international travelers.

Canadians should provide proof of Canadian citizenship, a description of the purpose of the entry, and evidence that he or she is engaged in an activity listed in NAFTA.

Duration of Stay

Duration of stay limited to time required to conduct business, up to initial grant of one year.

ACCEPTABLE B-1 ACTIVITIES UNDER NAFTA

Research and Design

Technical, scientific, and statistical researchers conducting independent research, or research for an enterprise located in Canada.

Growth, Manufacture and Production

Purchasing and production management personnel conducting commercial transactions for an enterprise located in Canada.

Marketing

Market researchers and analysts conducting independent research or analysis, or research or analysis for an enterprise located in Canada.

Trade fair and promotional personnel attending a trade convention.

Sales

Sales representatives and agents taking orders or negotiating contracts for goods or services for an enterprise located in Canada, but not delivering goods or providing services.

Buyers purchasing for an enterprise located in Canada.

Distribution

Transportation operators delivering to the United States, or loading and transporting back to Canada, with no intermediate loading or delivery within the United States.

After-Sales Service

Installers, repair and maintenance personnel, and supervisors, possessing specialized knowledge essential to the seller's contractual obligation, performing services or training workers to perform such services, pursuant to a warranty or other service contract incidental to the sale of commercial or industrial equipment or machinery, including computer software, purchased from an enterprise located in Canada, during the life of the warranty or service agreement.

General Services

Professionals otherwise classifiable as Treaty NAFTA (TN) Professionals under NAFTA, but receive no salary or other remuneration from a U.S. source.

L-1 CATEGORY: INTRACOMPANY TRANSFEREES

Basic Requirements

Used by multinational corporations to transfer foreign employees temporarily to a U.S. parent, subsidiary, branch, or affiliate.

Employee must have worked at least one year out of the preceding three years for the overseas company in one of the capacities listed below.

Employee must be coming to work in the United States in one of the following capacities:

Executive capacity: Direct overall management of organization or a major component or function; establish overall long-term policies and goals; and exercise wide latitude of discretionary authority.

Managerial capacity: Direct recognized department, subdivision or function of company; supervise the work of other supervisors or manage an essential function within the organization; hire/fire or, if no other employee is directly supervised, function at a senior level within the organizational hierarchy with respect to the function managed; and exercise discretionary authority over daily operations.

Specialized knowledge capacity: Work in position requiring specialized knowledge of the organization's product, services, research, equipment, techniques, management, or other interests and its application in international markets.

Foreign employee not required to maintain permanent residence abroad.

Application Process

Foreign or U.S. employer must file an L-1 petition and supporting documentation with a U.S. Immigration and Naturalization Service ("INS") regional service center. After receiving approval from the INS, the foreign employee applies for an L-1 visa from a U.S. Consulate abroad.

Canadian citizens, however, are not required to obtain visas and may file the L-1 petition directly with an INS officer at a U.S. port of entry. Documentation should be submitted to the INS several days in advance of the intended day of entry into the United States.

Duration of Stay

In general, initial three-year period granted by the INS. Seven-year cap on stay for executives and managers; five-year cap for workers with specialized knowledge. Intermittent use may allow further extensions.

H-1B CATEGORY: INDIVIDUALS WHO PERFORM SERVICES IN A "SPECIALTY OCCUPATION"

Basic Requirements

Used by U.S. employers who wish to hire foreign nationals temporarily to perform services in a "specialty occupation."

To qualify as a specialty occupation, the position must require at least a bachelor's degree (or the equivalent) in a specific specialty, or the nature of the specific duties must be so complex that the knowledge required to perform the duties is usually associated with the attainment of a degree.

To show that he or she is qualified to fill the job offered, the foreign national must have the degree (or the equivalent in education and work experience) required for the occupation; and any required state license to practice in the occupation.

Foreign workers are not required to maintain a permanent residence abroad.

Application Process

There is a two-step application process. First, the U.S. employer must file a labor condition application, containing certain representations regarding wages and working conditions, with the U.S. Department of Labor. Second, the employer must file an H-1B petition and supporting documentation with a U.S. Immigration and Naturalization Service ("INS") regional service center.

After receiving approval from the INS, foreign nationals, including Canadians, must apply for an H-1B visa from a U.S. Consulate abroad.

Duration of Stay

Initial three-year period of stay may be granted by the INS.

Extensions available, so long as the labor condition application is valid, for maximum six-year total in the United States.

H-2B CATEGORY: INDIVIDUALS WHO PERFORM TEMPORARY SERVICES OR WORK

Basic Requirements

Used by U.S. employers who wish to hire foreign workers temporarily to perform services in short supply. The petitioner's need must be a one-time occurrence, a seasonal need, a peakload need, or an intermittent need.

Foreign national must maintain permanent residence abroad.

Application Process

There is a two-step application process. First, the U.S. employer must demonstrate that qualified workers in the United States are not available and that employment of the foreign national will not adversely affect the wages and working conditions of similarly employed U.S. workers. This is done by filing an application for a temporary labor certification, which requires advertising the job at the prevailing wage, with the U.S. Department of Labor. Second, the employer must file an H-2B petition and supporting documentation with a U.S. Immigration and Naturalization Service ("INS") regional service center.

After receiving approval from the INS, the foreign worker must obtain an H-2B visa from a U.S. Consulate abroad.

Duration of Stay

An H-2B worker may remain in the United States up to three years.

H-3 CATEGORY: TRAINEES BASIC REQUIREMENTS

Foreign national must be coming to the United States to participate in an established training program that is not available in his or her home country.

The trainee may not engage in productive employment.

The H-3 petition must be accompanied by a statement describing the kind of training, the trainee's duties, and the reason why the training should be done in the United States.

After receiving approval from the INS, the trainee must obtain an H-3 visa from a U.S. Consulate abroad.

Application Process

A U.S. employer must file the H-3 petition and supporting documentation with an Immigration and Naturalization Service regional service center.

Duration of Stay

Depends on duration of training program, but may not exceed two years.

TREATY NAFTA ("TN") CATEGORY

Basic Requirements

Individual must be a citizen of Canada and be engaging in a business activity at a professional level in one of the professions listed in Appendix 1603.D.1. to Annex 1603 of the North American Free Trade Agreement (NAFTA).

Business activities at a professional level require that the individual have at least a baccalaureate degree or appropriate credentials demonstrating status as a professional. In addition, he or she must be licensed, if required, by the state of employment.

Individual may be employed by either a Canadian or U.S. employer; he or she may not be self-employed, however.

Unlike Canadians with B-1 status, individuals with TN status may work in the United States without regard to the source of remuneration.

The purpose of the entry must be temporary.

Individual should maintain a permanent residence abroad.

Application Process

Applicant must present documentation establishing the following: the proposed business activity and anticipated length of stay in the United States; educational credentials demonstrating professional-level status; compliance with applicable state laws and licensing requirements; arrangements for remuneration; proof of Canadian citizenship; and a \$50 filing fee.

Each U.S. port of entry has its own quirks. Documentation should be submitted several days prior to the intended day of entry to the United States to an INS inspector at a U.S. Class "A" port of entry, a U.S. pre-flight inspection station, or a U.S. airport that handles international traffic.

Evidence of the individual's nonimmigrant status will be shown on Form I-94, which will be provided to the applicant when he or she is inspected for entry into the United States.

Duration of Stay

Duration of stay limited to time required to conduct business, up to initial grant of one year.

TN status may be renewed on a year-to-year basis.

EXAMPLES OF PROFESSIONS LISTED UNDER APPENDIX 1603.D.1 OF NAFTA

Architect: Baccalaureate or Licenciatura Degree; or state/provincial license.

Computer Systems Analyst: Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma or Post-Secondary Certificate and three years' experience.

Disaster relief insurance claims adjuster (claims adjuster employed by an insurance company located in the territory of a Party, or an independent claims adjuster): Baccalaureate or Licenciatura Degree and successful completion of training in the appropriate areas of insurance adjustment pertaining to disaster relief claims; or three years' experience in claims adjustment and successful completion of training in the appropriate areas of insurance adjustment pertaining to disaster relief claims.

Economist: Baccalaureate or Licenciatura Degree.

Engineer: Baccalaureate or Licenciatura Degree; or state/provincial license.

Forester: Baccalaureate or Licenciatura Degree; or state/provincial license.

Graphic Designer: Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma or Post-Secondary Certificate and three years' experience.

Hotel Manager: Baccalaureate or Licenciatura Degree in hotel/restaurant management; or Post-Secondary Diploma or Post-Secondary Certificate in hotel/restaurant management and three years' experience in hotel/restaurant management.

Industrial Designer: Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma or Post-Secondary Certificate, and three years' experience.

Interior Designer: Baccalaureate or Licenciatura Degree or Post-Secondary Diploma or Post-Secondary Certificate, and three years' experience.

Land Surveyor: Baccalaureate or Licenciatura Degree; or state/provincial federal license.

Landscape Architect: Baccalaureate or Licenciatura Degree.

Lawyer (including Notary in the province of Quebec): L.L.B., J.D., L.L.L., B.C.L., or Licenciatura Degree (five years); or membership in a state/provincial bar.

Librarian: M.L.S., or B.L.S. (for which another Baccalaureate or Licenciatura Degree was a prerequisite).

Management Consultant: Baccalaureate or Licenciatura Degree; or equivalent professional experience as established by statement or professional credential attesting to five years' experience as a management consultant, or five years' experience in a field of specialty related to the consulting agreement.

Mathematician (including Statistician): Baccalaureate or Licenciatura Degree.

Range Manager/Range Conservationist: Baccalaureate or Licenciatura Degree.

Research Assistant (working in a post-secondary educational institution): Baccalaureate or Licenciatura Degree.

Scientific Technician/Technologist: Possession of (a) theoretical knowledge of any of the following disciplines: agricultural sciences, astronomy, biology, chemistry, engineering, forestry, geology, geophysics, meteorology, or physics; and (b) the ability to solve practical problems in any of those disciplines, or the ability to apply principles of any of those disciplines to basic or applied research.

Social Worker: Baccalaureate or Licenciatura Degree.

Sylviculturist (including Forestry Specialist): Baccalaureate or Licenciatura Degree.

Technical Publications Writer: Baccalaureate or Licenciatura Degree, or Post-Secondary Diploma or Post-Secondary Certificate, and three years' experience.

Urban Planner (including Geographer): Baccalaureate or Licenciatura Degree.

Vocational Counselor: Baccalaureate or Licenciatura Degree.

MEDICAL/ALLIED PROFESSIONALS

Dentist: D.D.S., D.M.D., Doctor en Odontologia or Doctor en Cirugia Dental or state/provincial license.

Dietician: Baccalaureate or Licenciatura Degree; or state/provincial license.

Medical Laboratory Technologist (Canada) Medical Technologist (Mexico and the United States): Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma or Post-Secondary Certificate, and three years' experience.

Nutritionist: Baccalaureate or Licenciatura Degree.

Occupational Therapist: Baccalaureate or Licenciatura Degree; or state/provincial license.

Pharmacist: Baccalaureate or Licenciatura Degree; or state/provincial license.

Physician (teaching or research only): M.D. Doctor en Medicina; or state/provincial license.

Physiotherapist/Physical Therapist: Baccalaureate or Licenciatura Degree; or state/provincial license.

Psychologist: State/provincial license; or Licenciatura Degree.

Recreational Therapist: Baccalaureate or Licenciatura Degree.

Registered Nurse: State/provincial license or Licenciatura Degree.

Veterinarian: D.V.M., D.M.V., or Doctor en Veterinaria; or state/provincial license.

SCIENTISTS

Agriculturist (including Agronomist): Baccalaureate or Licenciatura Degree.

Animal Breeder: Baccalaureate or Licenciatura Degree.

Animal Scientist: Baccalaureate or Licenciatura Degree.

Apiculturist: Baccalaureate or Licenciatura Degree.

Astronomer: Baccalaureate or Licenciatura Degree.

Biochemist: Baccalaureate or Licenciatura Degree

Biologist: Baccalaureate or Licenciatura Degree.

Chemist: Baccalaureate or Licenciatura Degree.

Dairy Scientist: Baccalaureate or Licenciatura Degree.

Entomologist: Baccalaureate or Licenciatura Degree.

Epidemiologist: Baccalaureate or Licenciatura Degree.

Geneticist: Baccalaureate or Licenciatura Degree.

Geochemist: Baccalaureate or Licenciatura Degree.

Geologist: Baccalaureate or Licenciatura Degree.

Geophysicist (including Oceanographer in Mexico and the United States): Baccalaureate or Licenciatura Degree

Horticulturist: Baccalaureate or Licenciatura Degree.

Meteorologist: Baccalaureate or Licenciatura Degree.

Pharmacologist: Baccalaureate or Licenciatura Degree.

Physicist (including Oceanographer in Canada): Baccalaureate or Licenciatura Degree.

Plant Breeder: Baccalaureate or Licenciatura Degree.

Poultry Scientist: Baccalaureate or Licenciatura Degree.

Soil Scientist: Baccalaureate or Licenciatura Degree.

Zoologist: Baccalaureate or Licenciatura Degree.

TEACHERS

College: Baccalaureate or Licenciatura Degree.

Seminary: Baccalaureate or Licenciatura Degree.

University: Baccalaureate or Licenciatura Degree.

E CATEGORY: TREATY TRADER/TREATY INVESTOR

Treaty Trader - Requirements

Trade: Company must be engaged in trade, which is the exchange, purchase or sales of goods and/or services.

Substantial: Trade must be substantial.

Principally with U.S.: Trade must be principally between the United States and the treaty country.

Duties: Employee must be coming to the United States to work in an executive or supervisory capacity or in a capacity requiring "essential skills."

Treaty Investor - Requirements

Active Investment: There must be an actual and active commitment of investment funds.

Substantial Investment: Large scale in relation to overall value of investment.

Creation of Jobs: Investment cannot be marginal or solely to earn a living.

Controlling Interest: Investor must have controlling interest in U.S. business.

Duties: Employee must be coming to the United States to work in an executive or supervisory capacity or in a capacity requiring "essential skills." Also may come to "develop and direct" the company's operations.

Special Conditions for Both Treaty Investors and Traders

United States must have a treaty of commerce and navigation with the visa applicant's country.

Company engaging in trade or investment in the United States must have the same nationality as the treaty country, i.e., the majority of the U.S. company must be owned and controlled by nationals of the treaty country. If a public company, the entity's nationality is presumed to be that of the stock exchange's location.

Each employee or principal of the investing/trading company must be a citizen of the country with a treaty of commerce and navigation or bilateral investment treaty with the United States.

Application Process

Visa application made directly with a U.S. Consulate abroad.

Duration of Stay

Duration of stay depends upon reciprocity with alien's treaty country.

Initial period of stay of one year. Indefinite extensions, in increments of two years, available as required.

O-1 FOREIGN NATIONALS WITH "EXTRAORDINARY ABILITY"

Basic Requirements

Covers foreign nationals with "extraordinary ability" in the sciences, arts, education, or business, which has been demonstrated by sustained national or international acclaim.

To establish that a position requires the services of an alien of extraordinary ability: (1) the services to be performed must involve an event or activity which has a distinguished reputation; (2) the services to be performed must be in a lead or critical role in an activity for an entity that has a distinguished reputation or has traditionally employed such extraordinary persons; (3) the services primarily must involve a specific scientific or educational project, conference, lecture, or exhibit sponsored by a bona fide scientific or educational entity; or (4) the services must consist of a specific business project that is appropriate for an extraordinary executive, manager, or highly technical person.

To demonstrate extraordinary ability, an alien must have received a major, internationally recognized award, such as the Nobel Prize; or provide documentation of three of the following: (1) receipt of nationally or internationally recognized prizes or awards; (2) membership in associations that require outstanding achievements; (3) published material about himself or herself in professional or major trade publications; (4) participation as a judge of other's work in the field; (5) original scientific, scholarly, or business-related contributions of major significance in the field; (6) authorship of scholarly articles in the field; (7) employment in a critical or essential capacity for organizations with distinguished reputations; or (8) a high salary.

Application Process

U.S. or foreign employer must file an O-1 petition and supporting documentation with the Immigration and Naturalization Service ("INS").

Approval of the petition will require the INS to consult with a peer group in area of the foreign worker's ability.

Duration of Stay

Petition valid for period of time needed to accomplish the event or activity.