

E-2 information

Description

Granted for applicants who want to enter the United States solely to develop and direct the operation of an enterprise in which they have invested a substantial amount of capital. An E-2 is also valid for their employees and members of their immediate family.

Basic Requirements Summary

Applicants are not required to submit the typical I-129 Petition, rather, application procedures may be completed entirely abroad through a U.S. Consulate. The candidate need not maintain foreign residence as long as the person declares an intention to leave the U.S. upon the expiration of the visa.

Three Necessary Requirements

1. A treaty of Freedom, Commerce and Navigation (FCN) or Bilateral Investment Treaty (BIT) must exist between the U.S. and the specific foreign country X
2. The company ownership/control must be held by nationals of foreign country X
3. Each individual person seeking this status must be a citizen of country X

Treaty Requirement

The State Department provides the list of countries with which treaties exist that we have included below.

There are special conditions that exist with a limited number of countries:

China, Iran, Eritrea, United Kingdom
(Please call us for an explanation of special conditions.)

Specific Candidate Requirements

The investor must make an active, substantial investment in a bona fide business entity that has the capacity to generate income.

Active Investments include funds that are irrevocably committed. Passive or speculative investment such as the possession of undeveloped land or securities of a business in which the investor is not engaged, are examples of Non-Active investment.

Substantial Investments are considered with no general rule in mind. Multi-million dollar investments will always be considered substantial. Typically the investment must meet a sliding scale proportion of the value of the enterprise or be an amount considered necessary to start the desired business enterprise. Note – Only investments in which the investor is personally at risk will be counted as substantial.

Similar to the E-1 trade requirement that the individual be a key member of the company, here the individual seeking entry under the E-2 must be responsible for the direction and development of the investment.

Typical Duties for Key Employees of E-2 Investor or Business Entity

1. Those performing supervisory or executive duties.
2. Those serving in lower positions with skills that are “essential to the successful operation of the enterprise”.

Note – skills with language are not recognized and the specialty skill must be directly essential to the company

Alternatives to the E-category

If a company or investor/trader is unable to qualify for either of the E category visas or if there is no treaty, then alternative visas may be appropriate:

L-1: Intra-company Transferees

B-1: Business Visitors

H-1B: Specialty Occupations

Validity Term

Initial period is 2 years; there are unlimited extensions available as long as requirements are met.

Extensions to the initial two-year period occur two ways.

1. Automatically if the alien leaves the U.S. and is readmitted.
2. Through an application for extension (2 yr. increments) with the USCIS

Dependents

Dependents (spouses and minor children) may accompany the primary visa holder. Dependent spouses of E-2 visa holders can obtain work authorization during their stay in the US. The expiration of the dependents' visas is co-terminus with the expiration date of the primary visa holder. In addition, the spouse and minor children of the principal E applicant can be granted dependent E status regardless of nationality.

The countries that maintain E-2 treaty status with the United States include:

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