

E Visas for Investors and Traders

Posted by Andrews Law

E Visas for Investors and Traders:

Did you know you can obtain a visa for yourself and your family to live and work in the U.S. if you create or acquire a U.S. business, or carry on substantial trade between the U.S. and your home country? The E visa is a temporary (nonimmigrant) visa authorized by U.S. treaties of commerce with various countries around the world. There are two types: E-1 for treaty traders, and E-2 for treaty investors. The visas allow the principal trader or investor and family to live and work in the U.S. temporarily – although “temporary” can extend for many years or indefinitely. Unlike the EB-5 investor visa, the E visas are nonimmigrant visas and do not result in a green card, however E visa holders and their dependents can live, work, and go to school in the U.S. Following is an overview of the two types of E visas.

E-1 Treaty Trader visas

Treaty Trader (E-1) visas are authorized based on a treaty of commerce between the United States and another country. This status is entitled for individuals intending to go to the United States to carry on substantial trade, including trade in services or technology, principally between the United States and the treaty country. The Treaty Investor visa is entitled for individuals intending to go to the United States to develop and direct the operations of an enterprise in which the national has invested; or is actively in the process of investing a substantial amount of capital.

E Visa Eligibility Criteria:

To qualify as a Treaty Trader (E-1):

- At least 50% of the ownership of the business (parent company) is of the nationality of the treaty country. That means at least 50% of the company stock is owned by citizens of the treaty country. Local permanent resident aliens or American citizens do not qualify as majority holders of US companies for E visa purposes.
- The applicant must be a national of the treaty country.
- At the time of the E-1 application a commercial, traceable and identifiable flow of goods, services and /or technology exists between the treaty company and the U.S. (i.e., title of the trade items must pass from one party to the other, trade includes successfully negotiated contracts).
- The flow of goods is substantial and continuous.
- At least 50% of the firm’s international trade is between the treaty country and the U.S.

- The applicant must be employed in a supervisory or executive capacity, or possess highly specialized skills essential to the operation of the firm. Ordinary skilled or unskilled workers do not qualify.

To qualify as a Treaty Investor (E-2):

- Requisite treaty exists;
- Individual and/or business possess the nationality of the treaty country and at least 50% of the business is owned by the treaty country, i.e., at least 50% of the company stock is owned by the treaty country, excluding/American citizens and U.S. Legal Permanent Residents (“green card” holders).
- Applicant has invested or is actively in the process of investing;
- Applicant’s investment is substantial. It must be sufficient to ensure the successful operation of the enterprise;
- The enterprise is a real and operating commercial enterprise. Speculative or idle enterprises do not qualify;
- Investment is more than marginal, and is not solely for earning a living;
- The investor must be coming to the U.S. to develop and direct the enterprise. If applicants are not the principal investors, they must be employed as a supervisor, executive, or as the possessor of highly specialized skills.

How to apply for an E-1/E-2 visa:

If a company is about to register for the first time or three years have passed since the last time they registered, the company is required to submit their supporting documents, including an employee’s individual application.

For E-1 companies:

in the event the company was approved for an E-1 status within the last three years, in addition to the employee’s complete application, the company needs to submit an official letter from their CPA stating the company’s current ownership and trade. A letter from an attorney or a financial officer will not be accepted. Important: Each file submitted for an E visa must include an application on behalf of the employee the company is relocating to the U.S.

The experienced attorneys at Andrews Law can help evaluate your eligibility for an E visa and work with you to develop a winning business and immigration strategy for your E visa application. Contact Andrews Law, PLC today at 1.888.855-9111 or 480.237.9756 for a confidential consultation. You can reach James Andrews directly at james@andrewslawplc.com.