

E-2 Treaty Investor

Purpose

The E-2 for treaty traders was created by Congress to facilitate foreign investment from countries that are signatories of commercial treaties with the United States.

Treaty Country

A treaty must be in force between the United States and the particular country of which the visa applicant is a citizen. A list of countries with which the United States has entered into a commercial treaty can be found at http://travel.state.gov/reciprocitylist_of_treaty_countries.htm.

Foreign Investment

Persons coming to the United States in E-2 status must solely to direct and develop the operations of an enterprise in which he or she has invested or is actively engaged in the process of investing a substantial amount of capital. The investment is substantial when it is sufficient to ensure the investor's financial commitment to the successful operation of the enterprise. The investment for a low-cost enterprise must be higher than that of a high-cost enterprise.

The investment must place lawfully acquired, owned or controlled capital at risk. Uncommitted funds in a bank account, speculative investment, idle investment and loans secured with the assets of the enterprise are not sufficient.

Treaty Traders

A treaty investor is a national of a treaty country that proposes to enter the United States for the sole purpose of investing in an enterprise in which he or she will develop or direct. If the applicant is not the principal investor, he or she must be employed in a supervisory or executive capacity by the principal investor or possess special qualifications that make his or her services essential to the successful operation of the enterprise. The employee, however, must have the same qualifying nationality as the principal trader. If the employer is a business entity, then persons of the same qualifying nationality as the employee must own at least 50% of the company.

The applicant must intend to depart the United States at the expiration of the E-2 status. A change of status, however, is not precluded once the E-2 visa holder has entered the United States and began complying with the terms of the status.

Adjudication Timeline

An E-2 application, [Form DS-156E](#), is filed with the closest United States Consulate in the country of the investor's nationality. Such applications are generally processed within 30 to 45 days of filing. However, the adjudication timeline tends to vary by Consulate, so be sure to check with the appropriate Consulate prior to filing the application.

The applicant should also submit an original passport with at least six months of validity beyond the

applicant's intended stay and one 2x2 photograph ([photo specifications](#)). The Consular Officer will provide the necessary forms to demonstrate a company's eligibility as a trader. All male applicants between the ages of 16 and 45, regardless of nationality, must also submit [Form DS-157](#).

Applicants should also provide evidence that the stay will be temporary by demonstrating ties to the country of nationality. A notarized letter stating ties such as family, permanent employment, etc. is recommended.

During the adjudication period, the Consulate reserves the right to request additional information and/or documents. It is advisable to check with the nearest Consulate for their local filing procedures. A list of U.S. Consulates can be found at <http://travel.state.gov/links.html>.

Dependents

Dependents, spouse or children under 21 years of age, regardless of nationality, of the beneficiary are eligible for a derivative E visas upon proof of the relationship. Dependents should provide a marriage or birth certificate to a Consulate of the United States to demonstrate the eligible relationship. Dependents should also submit their original passports.

Visa Issuance

Once the E-2 application is approved, the beneficiary will be instructed to return to the Consulate to pick-up his or her passport with the visa stamp affixed or the passport will be mailed to the applicant.

Extension of Stay

The E-2 status can be extended while in the United States. The E-2 status can be extended for as long as the beneficiary maintains his or her status with the trading entity.

For More Information

For more information, please contact Lee Lane Smith LLP at enquiry@leelanesmith.us or toll free at (800) 513-5699.