

Visa Waiver Program

Purpose

The Visa Waiver Program (VWP) enables citizens of participating countries to travel to the U.S. for tourism or business for 90 days or less without obtaining a U.S. visa. Currently there are twenty-eight countries participating in the VWP: Andorra, Austria, Australia, Belgium, Brunei, Denmark, Finland, France, Germany, Iceland, Ireland, Italy, Japan, Liechtenstein, Luxembourg, Monaco, The Netherlands, New Zealand, Norway, Portugal, San Marino, Singapore, Slovenia, Spain, Sweden, Switzerland, the United Kingdom and Uruguay.

As of April 15, 2003, Uruguay no longer participates in the VWP and its citizens must apply for a B-1 (business visitor) or B-2 (tourist visa) prior to departure. As of February 21, 2002, Argentina no longer participates in the VWP.

Entering the U.S. on VWP from a participating country:

- Have a valid passport issued by the participating country and be a citizen (not merely a resident) of that country. As of October 1, 2003, the passport presented at the U.S. port of entry will need to be a machine readable passport (MRP) that meets international standards. Although this requirement can be waived by the Secretary of State, it is recommended that a MRP be obtained prior to departure. If not, the holder will be admitted until the expiration date on the passport. Note: Passport holders from Andorra, Brunei, and San Marino must be in possession of a passport valid for at least six months from the date of departure from the United States, even if traveling visa free under the Visa Waiver Program;
- Be seeking entry for 90 days or less as a temporary visitor. On April 12, 2002, the Immigration & Naturalization Service (now the Customs & Border Protection agency (CBP)) issued a proposed rule to limit the majority of VWP entries to thirty days unless cause can be shown for more time;
- If entering by air or sea, have a round-trip ticket issued by a carrier that has signed an agreement with the United States government to participate in the VWP, and arrive in the United States aboard such a carrier. If using an electronic ticket, you must present an itinerary showing the intended date of departure. This includes aircraft or vessels of a United States Corporation that has entered into such an agreement. This requirement, however, does not include other private or official aircraft or vessels that have not signed such an agreement.
- Have proof of financial solvency and hold a completed and signed Form I-94W Visa Waiver Arrival/Departure, on which the right to a hearing of exclusion or deportation has been waived. These forms are available from participating carriers, travel agents, and at land-border ports-of-entry. (Travelers should consult carriers to verify which ones are participating before making travel arrangements.)
- An applicant under the VWP should carry a letter addressed to port of entry from the foreign employer, setting forth the circumstances of the visit. The letter should state the purpose of the trip in detail, including an itinerary of meetings, etc.

Entering the U.S. on VWP from Canada or Mexico:

Entry at a land border crossing point from Canada or Mexico is permitted under the VWP. Travelers who apply for entry at a land border crossing point are not required to present round-trip tickets or arrive at the border entry point aboard a carrier who has signed an agreement with the U.S. to participate in the VWP. All other VWP requirements apply to such travelers, including a \$7.00 processing fee payable only in U.S. dollars. Most ports of entry will accept credit cards.

Duration of stay after entry under VWP:

Visitors applying for entry under this program are allowed to remain ninety days. No extensions are granted, and VWP travelers cannot change their status while in the United States. Travelers entering

under the VWP are not permitted to engage in productive work or study.

Whether you travel to the U.S. on the visa waiver or with a visa, it is important to ensure that your I-94 or I-94W card is removed from your passport prior to your departure from the United States.

Citizens of a VWP country not eligible for visa free entry:

Citizens of a VWP country may be ineligible for entry under the VWP if they have been previously denied a visa, have a communicable disease, been arrested but not convicted or have a criminal record. Rehabilitation and/or expunged convictions are not recognized under U.S. law. Travelers, who believe they may be ineligible to enter the U.S. on the VWP, should contact the nearest U.S. Embassy or Consulate before attempting to travel on the VWP. Such travelers may need to apply for a special restricted visa.

Travelers with minor traffic offenses which did not result in an arrest and/or conviction for the offense may travel visa free, provided they are otherwise qualified. If the traffic offense occurred while you were in the United States and you have an outstanding fine against you or you did not attend your court hearing, it is possible there may be a warrant out for your arrest, and you will experience problems when applying for admission into the U.S. Therefore you should resolve the issue before traveling by contacting the court where you were to appear.

Transit under the Visa Waiver Program

Travelers who qualify for visa free travel under the VWP are eligible to transit the United States. Application for entry is made on the arrival/departure form I-94W provided by the airline or shipping company.

If transiting the United States to a destination in Canada, Mexico or the adjacent islands, the traveler may re-enter the United States on the return journey using any mode of transport, as long as the total visit, including both periods of time spent in transit and in Canada, Mexico or the adjacent islands, does not exceed ninety days.

If transiting to a destination outside of Canada, Mexico, or the adjacent islands, the return journey must be on a participating carrier, but need not be within ninety days, as the traveler will be required to make a new application for admission and therefore, required to complete a new arrival/departure form, I-94W. Travelers transiting the United States to take up residence in Mexico, Canada, Bermuda or the Caribbean Islands must have previously obtained a lawful permanent resident status in the destination country.

Guam Visa Waiver Program:

In addition to the Visa Waiver Program, there is a separate visa waiver program for Guam. Citizens of the 28 VWP countries can travel to Guam under the visa Waiver. Travelers from Guam Visa Waiver Program countries may enter Guam for business or pleasure and remain for up to 15 days. Citizens of some countries, including the Republic of Korea, may travel to Guam without a visa using the Guam Waiver Program.

They must hold a valid passport and have a round trip or onward ticket. No extension of stay, adjustment of status, or onward travel to another destination in the United States is permitted. Travel must also be aboard a signatory airline or ship.

Persons who are traveling to the United States or Guam for reasons other than business or pleasure exceeding 90 days (15 days for Guam) will need a visa. Also persons who may be ineligible to participate in the waiver program because of certain medical problems, criminal convictions, narcotic addiction or prior deportation from the United States will continue to need visas.

United States Immigration officials retain the right to deny entry to travelers entering under the VWP who appear to have intentions to study, work or remain longer than 90 days. An appeals process does

not exist for travelers in this situation.

Taiwan and the Visa Waiver Program

Citizens of Taiwan must meet all of the above requirements to enter under the VWP. Travelers applying for admission under the visa waiver program must have passports that are valid for six months after the planned departure date. The duration of stay, however, is limited to fourteen days with no extensions available.

For More Information

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