

Business Immigration

BUSINESS IMMIGRATION TO THE UNITED STATES

A BASIC OVERVIEW

Current U.S. immigration law allows people who have skills and talents needed in the United States to be admitted to the United States to work on a temporary or permanent basis. The following provides a basic overview of the current employment-based immigration system.

Nonimmigrant (Temporary) Visas for Business

- There are more than 20 different kinds of nonimmigrant visa names and types. Each is defined by Congress in statute to meet a particular need of the U.S. economy. Some of these visas can be used for employment in the United States, under tightly regulated conditions.
- These foreign nationals are allowed to enter the United States for temporary, specifically defined periods of time and in most cases must show intent to return to their home country at the end of their temporary stay.
- Nonimmigrants with permission to work in the United States are either sponsored by a U.S. employer based on a specific job offer and must work only for that employer, or have work permission for specific objectives. (For example, students granted practical training in their field of study or professors and researchers working in international exchange programs.)
- Most foreign nationals undergo *at least two* screening processes in order to come to the United States. The State Department Consular Officer decides whether the individual's purpose in coming matches one of the approved categories, and whether the person meets all other eligibility criteria for admission (i.e., is not a criminal, has not previously committed fraud, etc.) before issuing a visa to allow the individual to come to the United States. Upon arrival, all nonimmigrants are inspected by the USCIS to reconfirm their qualification for admission, and to determine the appropriate nonimmigrant classification and authorize a specific length of stay. Some employer-sponsored nonimmigrants must have USCIS approve a petition on their behalf, based on highly defined criteria, before even applying for their visa.
- Some work-authorized categories are limited by annual levels (e.g., H-1B professionals, and H-2B temporary or seasonal workers).

Immigrant (Permanent Residence) Visas for Business

- There are five basic types of business immigrant visas, ranked in order of priority of need by U.S. employers and the economy, as determined by Congress. *All categories are limited by annual levels and per country levels.*
- These immigrants become permanent residents - "green card holders" - and the indefinite right to live and work in the United States, as long as they do not commit any offense that would render them deportable.
- Business immigrants usually are sponsored by a U.S. employer based on a demonstrated need. Some business immigrants may self-petition if they meet statutory criteria for "extraordinary ability" in their field, or if their entry would be in the "national interest."
- Protections for U.S. workers are built into the system. Most business immigrant cases require Department of Labor certification that no U.S. workers are able, qualified or willing to take the position offered to the foreign national and that admitting the immigrant won't negatively impact the wages and working conditions of similarly situated U.S. workers. The only categories exempt from this requirement are those for individuals who are extraordinary or outstanding in their field or whose presence is in the "national interest."

Contact our office to speak with a member of our Immigration Group.