

TN-1 Professionals

General Information About TN Status

The 1994 North American Free Trade Agreement (NAFTA) facilitates travel to and employment in the United States for certain Canadian and Mexican workers. NAFTA created a new visa category, "TN," for eligible Canadian and Mexican professional workers and also affected terms of admission for Canadians admitted to the United States under other nonimmigrant classifications.

TN employment must be in a NAFTA Schedule 2 profession (listed below) and the TN employee must possess the credentials required. TN status allows unlimited multiple entries to the United States for the period of services required by the United States employer, up to a maximum of three years, extendable indefinitely as long as the temporary purpose of the foreign national's employment continues.

There is no annual limit on TN-1/TN-2 admissions for Canadian or Mexican professionals.

Self-Employment

TN: Members of Schedule 2 professions who are self-employed outside the United States may pursue business relationships from outside the United States (e.g., contracts for services) with U.S.-based companies and obtain TN status to engage in these prearranged activities in the United States.

B-1: NAFTA does not permit self-employed Canadian or Mexican national business visitors to establish United States business offices to service U.S. clients. Prearranged contracts for services may not be carried out in B status.

Admissions Pursuant to NAFTA

- Canadians may apply for TN-1 classification directly at Class A United States ports of entry. Documentation must include proof of Canadian citizenship, proper filing fee, proof of required Schedule 2 credentials and documentation from a U.S. employer that sets forth the nature and duration of professional employment and salary/wages in the United States. Canadian citizens need not obtain TN-1 consular visas.
- Mexican nationals (TN-2) may now apply for TN-2 classification without the need for a petition being filed with U.S. Citizenship and Immigration Services (USCIS); however, they must obtain consular visas. Documentation must include proof of Mexican citizenship, applicable filing fee, proof of the purpose for entry and proof of participation in a permitted NAFTA professional activity.
- Two of the more highly scrutinized categories under Chapter 15, Schedule 2 of NAFTA are the scientific technician/technologist and management consultant categories. A key reason for the increased scrutiny is that these two job categories are the only two "activities at a professional level" under NAFTA that qualify for a TN visa, but do not require a baccalaureate degree.

Management Consultant

Management consultants are considered to be Schedule 2 professionals under NAFTA and, therefore, eligible for TN classification. However, their services are expected to be of a temporary, periodic or fixed consulting nature rather than performed as full-time employment. To qualify under the management consultant category, an applicant must possess a baccalaureate or licenciatura degree or the equivalent professional experience (as established by a statement or professional credential evaluation attesting to five years' experience as a management consultant or five years' experience in a field of specialty related to the applicable consulting agreement).

By definition, management consultants provide services that help organizations improve their performance in a wide range of disciplines, primarily through the analysis of existing strategic and operating business problems and development of plans for improvement of the organization's administration, policies and goals. Organizations may engage the services of management consultants for any number of reasons to take advantage of the consultants' specialized expertise, specifically where the hiring of more permanent employees is not required.

As such, a TN-1 management consultant should generally not be a regular, full-time employee of the organization while providing such consulting services. In this regard, a management consultant is typically an independent contractor who enters into a formal consulting agreement with the entity in need of his or her services. As such, an offer of full-time salaried employment is the exception, not the rule. For example, the management consultant TN-1 may be an employee of a consulting firm under contract to a U.S. entity. The management consultant TN-1 should not, however, be filling a newly created permanent position or replacing someone in an existing position of the organization ultimately receiving the benefit of the services.

[Click here](#) to review some of the firm's most recent successes in the NAFTA management consultant TN-1 category. While we endeavor to list many of our most recent successes, the scope of our TN-1 practice (and success) is by no means limited to these examples.

Scientific Technician or Scientific Technologist

To qualify for TN-1 status under NAFTA as a scientific technician or scientific technologist, an applicant must provide probative evidence that he or she possesses:

- (a) theoretical knowledge of one of the following disciplines: agricultural sciences, astronomy, biology, chemistry, engineering, forestry, geology, geophysics, meteorology or physics
- (b) the ability to solve practical problems in any of those disciplines or the ability to apply principles of any of those disciplines to basic or applied research

The scientific technician/technologist's theoretical knowledge should have been acquired through the successful completion of at least two years' training in a relevant educational program (as evidenced by submission of a diploma, certificate or transcript accompanied by evidence of relevant work experience).

The regulations also require that the scientific technician or scientific technologist work in direct support of a degreed professional in one of the foregoing enumerated disciplines. 8 C.F.R. sec. 214.6 (c) and n.6.

In this regard, the work of the scientific technician or scientific technologist must be managed, coordinated and reviewed by the supervising professional and the applicant's work must provide input into the supervising professional's own work.

Finally, in accordance with a State Department memo issued in January 2008, the functions of a scientific technician or scientific technologist should be consistent with those of a scientific or engineering technician as set forth in the U.S. Department of Labor's (DOL) Occupational Outlook Handbook.

Click [here](#) to review some of the firm's most recent successes in the scientific technician and scientific technologist category. While we endeavor to list many of our most recent successes, the scope of our NAFTA TN-1 practice (and success) is by no means limited to these examples.

- NAFTA has extended acceptable B-1 activities, including servicing post-sale agreements and warranties (see NAFTA Schedule 1), to any professional category listed on Schedule 2. However, general visitor classification restrictions continue to apply.
- E-1 and E-2 (treaty traders and investor) visas may be denied to Canadian or Mexican citizens whose entry into the United States may adversely affect (a) settlement of a labor dispute certified by the Department of Labor or (b) employment of a person involved in a certified strike or work stoppage.
- L-1 classification for Canadian citizen intracompany transferees may be adjudicated directly at Class A ports of entry to the United States. Mexican citizens must obtain L visas prior to entry into the United States, once approved as beneficiaries of petitions for L-1A or L-1B classification. L visas may be denied to any Canadian or Mexican professional whose entry into the United States may adversely affect settlement of a DOL-certified strike or work stoppage.

Family Members of TN-1 and TN-2 Professionals

Family members of both Canadian and Mexican professionals may enter the United States in TD status. They can be included on the application of the TN principal and be admitted for the same duration of stay. TD admissions do not require separate filing fees. TD nonimmigrants may be students in the United States, but are not authorized for employment under this classification.

Canadian dependents' eligibility may be adjudicated at a U.S. port of entry. Mexican family members must file separate applications for TD visas at a U.S. consulate.

Change of Status to TN

Canadian citizens in the United States in B, L, H or other nonimmigrant status may change to TN status in two ways:

- The petitioner submits Form I-129 to the appropriate USCIS service center. This petition includes a request for change of status for beneficiary. Form I-539 must be filed for family members.
- The foreign national departs the United States and applies for TN classification directly upon re-entry.

Mexican citizens in the United States in B, L, H or other nonimmigrant status may change to TN-2 status only by applying to the service center in the same manner as Canadian applicants for change to TN-1 status under the first example above, except that TN-2 principals and TD dependents must include copies of their Forms I-94.

Change of TN Employment

TN-1 Canadian professionals may change employers or add an employer by filing Form I-129 with the appropriate USCIS service center or by departing the United States and presenting revised documentation, relating to the new employment, at the port of re-entry.

As of Dec. 31, 2003, TN-2 Mexican professionals may also change or add employers by filing Form I-129 with the appropriate USCIS service center or by departing the United States and presenting revised documentation, relating to the new employment, at the United States Consulate in Mexico.

Extension of Stay for TN Professionals

General: An unlimited number of extensions of stay may be granted to TN-1 or TN-2 nonimmigrants in three-year increments. TD dependents derive permission to extend their stays from the TN principals.

- Canadians (TN-1 professionals) who wish to apply for extensions while remaining in the United States may file Form I-129 (plus the applicable filing fee) for the TN principal and Form I-539 (plus applicable filing fee) for family members with the appropriate USCIS service center. Alternatively, TN principals and family members can depart the United States and apply for readmission in TN and TD status at a port of re-entry. TD family members traveling without the TN principal may extend their stays by applying at ports of re-entry with a copy of the principal's Form I-797.
- Mexican professionals may apply for extensions of TN-2 status only by filing Form I-129 with the applicable filing fee and a copy of the Form I-797 approval notice and the Form I-94. Applications on Form I-539 must be filed concurrently by dependent family members with the appropriate filing fee.

Adjustment of Status from TN

Unlike H-1B, for example, TN is not a "dual intent" classification. This means that a TN nonimmigrant must maintain the intent to depart the United States at the conclusion of the approved TN employment and not intend to establish permanent U.S. residence. Accordingly, TN nonimmigrants generally are not permitted to be intending beneficiaries of pending petitions for permanent residence while employed under a TN (or derivative dependent) classification. Of course, eligible Canadians or Mexicans are not prohibited from changing from TN to another nonimmigrant classification that permits dual intent and subsequently petitioning for permanent residence and adjustment under the new classification.

Effective Immigration Lawyers for TN Professionals

The immigration law attorneys at Meyner and Landis LLP have successfully facilitated entrance into the U.S. for many Canadian and Mexican professionals under TN-1 or TN-2 visa classifications. In a recent petition for a TN-1 classification, we were successful in demonstrating that a chemical technician met the requirements of the scientific technician/technologist category under NAFTA. View more of our recent TN-1 successes.

View more of our recent successes in immigration law.

TN professions (NAFTA Schedule 2)

Professions	Required credentials
Accountant	1, CPA, CA, CGA or CMA
Architect	1 or 2
Computer systems analyst	1 or 4 and 3
Disaster relief insurance claims adjuster (employed by Canadian or Mexican company or independent)	1 and 3 or 4 and 3
Economist	1
Engineer	1 or 2
Forester	1 or 2
Graphic designer	1 or 4 and 3
Hotel manager	1 or 4 and 3 (in hotel management field)
Industrial designer	1 or 4 and 3
Interior designer	1 or 4 and 3
Land surveyor	1 or 2
Landscape architect	1
Lawyer (incl. notary in Quebec)	LLB, JD, LLL, BCL or 5 (five years) or bar membership
Librarian	MLS or BLS (for which 1 is prerequisite)
Management consultant	1 or equivalent experience as established by statement or credential attesting to five years' experience in the field or five years' experience in specialty field relating to consulting agreement
Mathematician (including statistician)	1
Range manager/conservationist	1
Research assistant (post-secondary)	1
Scientific technician/technologist	Possession of theoretical knowledge of, ability to solve practical problems in, or ability to apply principles to basic or applied research of any of the following disciplines: agricultural sciences, astronomy, biology, chemistry, engineering, forestry, geology, geophysics, meteorology or physics
Social worker	1
Sylviculturist (including forestry specialist)	1
Technical publications writer	1 or 4 and 3

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Counsellors at Law

Urban planner (including geographer)	1
Vocational counselor	1
Medical specialists	Required credentials
Dentist	DDS, DMD, doctor en odontologia or doctor en chirugia Dental or 2
Dietitian	1 or 2
Medical (laboratory) technologist	1 or 4 and 3
Nutritionist	1
Occupational therapist	1 or 2
Pharmacist	1 or 2
Physician (for teaching or research only)	MD, doctor en medicina, or 2
Physiotherapist/physical therapist	1 or 2
Psychologist	2 or 5
Recreational therapist	1
Registered nurse	2 or 5
Veterinarian	DVM, DMV, doctor en veterinaria or 2
Scientists	Required credentials
Agriculturist (agronomist)	1
Animal breeder	1
Animal scientist	1
Apiculturist	1
Astronomer	1
Biochemist	1
Biologist	1
Chemist	1
Dairy scientist	1
Entomologist	1
Geneticist	1
Geochemist	1
Geologist	1
Geophysicist (including oceanographer in Mexico and U.S.)	1
Horticulturist	1
Meteorologist	1
Pharmacologist	1

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Counsellors at Law

Physicist (including oceanographer in Canada)	1
Plant breeder	1
Poultry scientist	1
Soil scientist	1
Zoologist	1
Teachers	Required credentials
College	1
Seminary	1
University	1

***KEY TO SYMBOLS:**

- 1 = Baccalaureate/licenciatura degree
- 2 = State/provincial/federal license
- 3 = three years' relevant experience
- 4 = post-secondary diploma or certificates
- 5 = Licenciatura degree only

Our immigration attorneys can help with every aspect of your immigration case. For a free evaluation and estimate of your case or if you would like to speak to a knowledgeable attorney at Meyner and Landis, please complete our [immigration intake form](#).

With offices in Newark, New Jersey, and New York, New York, the Immigration Law Group of Meyner and Landis LLP conveniently provides immigration services for businesses and individuals throughout New Jersey. The firm's immigration practice, however, is national in scope, encompassing the representation of multinational Fortune 500 employers, businesses and individuals throughout the United States.

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