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E-1 VISA

Overview

The U.S. government has signed a series of bilateral treaties with certain countries to promote trade and investment. A foreign national who seeks an E-1 visa must enter the United States in order to carry on substantial trade or to develop and direct the operations of an enterprise, or as a key employee in providing efficient operation of the enterprise. Once approved, the E visa is usually valid for up to five years and can be renewed indefinitely. The E visa holder is granted up to two years on the I-94 card upon entry into the U.S. Dependents of E visa holders may also request to enter and are eligible to apply for Employment Authorization.

Qualifying Criteria

In order to qualify for E-1 visa status, a foreign national must demonstrate the following:

1. Substantial trade:
 - a. Trade: the existing international exchange of items of trade for consideration between the U.S. and the treaty country.
 - b. Items of trade include, but are not limited to: goods, services, international banking, insurance monies, transportation, communication, data processing, advertising, accounting, design and engineering, management consulting, tourism, technology and its transfer, and some news-gathering activities.
 - c. Principal trade: principally between the U.S. and the treaty country - more than 50% of total volume of international trade between the U.S. and treaty country.
2. Nationality of corporation: at least 50% of stock owned by nationals of treaty country.

Filing Fees

If the foreign national is in the U.S., an application for a change of status may be filed. Premium processing (in order to receive an initial response within 15 business days) is optional for an additional fee. It is possible to file the change of status while the E visa applicant is in the U.S.; however, if the E visa applicant enters the U.S. on the Visa Waiver Program, then the applicant is ineligible for change of status in the U.S. and must apply directly in the U.S. Consulate or enter the U.S. in a different non-immigrant visa status.

If E-1 visa applications are not filed with the USCIS Service Center, there are no government filing fees. However, E-1 visa applicants are required to pay visa application and issuance fees at the U.S. Embassy or Consulate.

Time Frame

As a general matter, E-1 visa applications are to be filed directly at the U.S. Embassy or Consulate in the treaty country. Each post processes E-1 visa applications differently. Most posts adjudicate E-1 visa applications within 2-4 months if all required supporting documents are complete at the time of submission of such application. Once the preliminary adjudication is complete, the Consulate will then inform the applicants to appear for an interview.

Important Note

Please note the LL.M. Law Group will make every effort to obtain approval of the visa in its original submission. However, as there are varying standards of review depending on the type of visa, it is often the case that a Request for Evidence (RFE)

will be issued by the U.S. Citizenship and Immigration Services (USCIS) to clarify whether the applicant qualifies for the visa. Further, for those visa applications that allow for premium processing, it is *critical* to note that the 15 day guarantee will be voided if a RFE is issued and therefore you will need to plan accordingly. The USCIS will have an additional 60 days within which to provide a final decision upon receipt of the response to the RFE, but it is our experience that the majority of final decisions will be issued within an average of three (3) weeks following receipt of the response to the RFE. Additional attorney fees will be charged for a response to a RFE or any additional work beyond the submission of the visa application or the terms of our retainer agreement.