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E-2 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-2 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 granted, the E visa is usually valid for two years and can be renewed indefinitely. 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-2 visa status, a foreign national must demonstrate the following:

1. Nationality of investment enterprise: at least 50% of the ownership by the foreign nationals.
2. Investments: has invested or is actively in the process of investing.
3. Commercial enterprise: must be entrepreneurial in nature, not passive investment.
4. Substantiality of investment:
 - a. The amount of qualifying funds invested weighed against the total cost of purchasing or creating the enterprise;
 - b. The amount normally considered sufficient to ensure the investor's financial commitment to the successful operation of the enterprise; and
 - c. A magnitude of investment to support the likelihood that investor will successfully develop and direct the enterprise.
5. Investment can not be marginal.
6. Foreign national must develop and direct the enterprise and have controlling interests in business.
7. Intent to depart.

Government Fees

If the foreign national is in the U.S., an application for a change of status may be filed. The government filing fees are \$190.00 and premium processing (in order to receive an initial response within 15 business days) is optional for an additional \$1,000.00. 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 a visa application fee at the U.S. Embassy or Consulate. The current visa application fee is USD \$100.00.

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 3-4 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.