

## The Differences Between U.S. B-1 Business Visitor and B-2 Visitor for Pleasure



# Immigration Blog

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Coming to the U.S. as a visitor is fairly straightforward. Whether entering the U.S. on a visa, using the visa waiver program, or without needing either of these because you are a visa-exempt Canadian, entering as a visitor has specific requirements. But does it matter if you're admitted as a B-1 business visitor or a B-2 visitor for pleasure?

There are a few nearly universal requirements for someone to be admitted to the U.S. as a "visitor." For instance, one must have a foreign residence to which he/she plans to return. Entries must be temporary in nature, and an officer must be convinced that the visitor is not entering with the intent to reside in the U.S. temporarily or permanently.

### Coming as a pleasure visitor

In addition to vacation and family visits, some less common reasons for B-2 entries to the U.S. include entering for medical treatment, avocational study, and cohabitating family or household members who may not otherwise

qualify for a visa or entry.

## **Coming as a business visitor**

Visitors coming as B-1 Business Visitors also cannot be paid for their U.S. activities from a U.S. source, except (in certain cases) for incidental travel expenses or for limited other purposes. Importantly, a B-1 Business Visitor applicant to the U.S. will fail to qualify for admission if an officer believes he or she plans to work in the U.S. Immigration practitioners frequently refer to the word “work” as one of those kinds of four-letter words at the border. Many U.S. Customs and Border Protection (CBP) officers will describe work as “anything for which someone normally gets paid.” Those who think they can skirt work authorization requirements by simply getting paid outside the U.S., getting paid in foreign dollars, or volunteering their services, might be in for a rude awakening at the border.

Another more formal test applied by CBP officers is the requirement of a work authorization for those whose U.S. activities will have an impact on the U.S. labour market. If a business were to need to hire a worker in the U.S. if the foreign national does not come to the U.S., those activities and that foreign national may be required to obtain a work authorization to come to the U.S.

Another consideration in determining if someone qualifies as a Business Visitor is identifying who the beneficiary of the activities is. If the traveler is checking on her Canadian employer’s subsidiary to ensure its U.S. office is maintaining the high standards of the parent organization, for example, the beneficiary of the activities is the Canadian company, and the visitor will likely qualify as a B-1 business visitor. If the Canadian worker is hiring staff in the U.S. or filling in for a U.S. company worker presenting at a trade show, he will likely not qualify for B-1 status.

Other B-1 Business Visitor activities include religious or volunteer activities, some professional athletes who play for foreign teams or countries, and foreign airline employees or tour company personnel. However, the regulations and policies are specific and carve out exceptions, so ensure that your specific activities are permissible before you get to a port of entry. Consulting with experienced immigration counsel is recommended, and the attorneys at Lippes Mathias can assist you. For questions about this topic or others, reach out to Eileen M. Martin ([emartin@lippes.com](mailto:emartin@lippes.com)) or Elizabeth M. Klarin ([eklarin@lippes.com](mailto:eklarin@lippes.com)).

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