

## U.S. E Visas: What is Required Based on Nationality



# Immigration Blog

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E visas are treaty-based visas available to non-immigrant investors and treaty traders from more than 80 countries worldwide, based on a variety of eligibility criteria. But exactly how to apply and what is required for the application package can vary from country to country, and at the U.S. embassy or consulate in each location. In addition, the length of the E visa — and therefore, your eligibility to enter the U.S. — also varies based on your country of nationality.

### **What are E visas and who can get them?**

E visas are non-immigrant visas available to nationals of certain “treaty” countries who come to the U.S. to conduct substantial trade (E-1) or to develop and direct a business in which they have made a substantial investment (E-2), or serve as an employee of a qualified E visa business in an executive, managerial, supervisory or essential worker capacity. While they make foreigners eligible for only temporary status, they can remain eligible for status as long as their visa is valid, and the status can be renewed indefinitely as long as the underlying treaty and trade or investment and all eligibility requirements continue.

## How do I apply?

There are two ways to obtain E visa status for applicants with qualifying nationalities. You can apply to change status from within the U.S. to either E-1 or E-2 — but that status will only be granted for up to two years (unless it is terminated earlier for another reason) and will only remain valid so long as you do not leave the U.S. If you are applying from outside the U.S., you generally are required to apply for an E-1 or E-2 visa through a U.S. embassy or consulate in your home country. While many of these applications are submitted electronically for review before the visa appointment, some U.S. diplomatic posts require the full E-1 or E-2 visa application packet to be physically submitted in paper form instead and/or printed and brought with the applicant to his or her interview for the visa.

The specific forms or documentation requested by the U.S. embassy or consulate adjudicating the application to prove eligibility, as well as the requested format for the submission, may also vary from country to country. It is therefore important to check the E visa instructions on the U.S. Department of State's website for the country where you will be applying before gathering your documentation and preparing an application packet.

## How do I know how long my E visa will be valid?

For those requesting to change their status to E-1 or E-2 from within the U.S., the I-94 Arrival/Departure record attached to their approval notice will state the specific dates the individual will remain in the designated status. For those applying for E visas from outside the U.S., the visa can either be valid for single entries or for multiple entries, depending on the applicant's nationality.

The E visa type (single or multiple entry) and time frame of validity is determined by the relevant treaty between the U.S. and the country of the applicant's nationality and application, published by the U.S. Department of State in a table called the "Visa Reciprocity Table." "Reciprocity" means that when a foreign government imposes fees on U.S. citizens for certain types of visas, the United States will impose a reciprocal fee on citizens of that country/area of authority for similar types of visas. When trying to find the information on how long an E visa will be issued to a qualified Canadian, for example, you would go to the table online, click on "Canada" and then click on the letter E (for the type of non-immigrant visa you intend to apply for). For both E-1 (treaty trader) and E-2 (treaty investor) visas for Canadians, a visa permits multiple entries, and both are typically issued and can be used continuously for 60 months (five years) from the date the visa is issued to obtain entry to the U.S. in the relevant E status (E-1 or E-2).

## What about my spouse and children?

Do they have to be the same nationality as me? If you have a valid marriage (i.e., not "common law," and recognized by a legal authority in the country of marriage), spouses can qualify for dependent visas in the same category based on that marriage. These will be issued to spouses regardless of whether their nationality matches that of their spouse/the principal E visa applicant and will be valid for the same time frame as the principal applicant. Spouses are permitted to work in the U.S. on E visas; however, while children under age 21 will qualify for E visas as well to reside with their parent(s) and attend school in the U.S., they are not work-authorized like the principal applicant and his/her spouse. Spouses and children in the U.S. can file applications to change their status with the principal applicant's change-of-status petition.

## Other things to consider

E visa applications are complicated and quite technical, so you should seek the guidance of a qualified immigration professional if applying for either of these types of visas or changing your status to E-1 or E-2 from within the U.S. The process generally takes months to complete through regular processing of change-of-status applications through U.S. Citizenship and Immigration Services, or through the U.S. Department of State abroad. Delays or rejected applications caused by misunderstanding the requirements, submitting an application in the wrong format, not submitting sufficient information or documentation supporting the applicant's qualification, or even a simple mistake on any part of the application can change the processing time from a few months to far longer.

*If you have questions regarding the content of this article or other immigration law topics, feel free to contact Lippes Mathias immigration law team members, Elizabeth M. Klarin ([eklarin@lippes.com](mailto:eklarin@lippes.com)) or Eileen M. Martin ([emartin@lippes.com](mailto:emartin@lippes.com)).*

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