

## Understanding the E-1 Treaty Trader Visa for Canadian Companies in the U.S.



# Immigration Blog

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The E-1 Treaty Trader visa permits executives, managers, supervisors, and essential employees of non-U.S. companies that engage in substantial trade between the U.S. and a treaty country to obtain work permits valid for five years. Canada has the requisite treaty, the U.S. Mexico Canada Free Trade Agreement (often referred to as “CUSMA” by Canadians), to permit Canadians to obtain this flexible visa. Although Canadian citizens are usually visa exempt for purposes of entering the United States, this is one of the rare instances when visas obtained from the U.S. Consulate in advance of entry is required.

In order to qualify for an E-1 visa, the applicant must work for a business that is owned by citizens of the treaty country. For a Canadian applicant, the business will qualify if at least 50% of the shares are Canadian or 50% of the membership or ownership is Canadian. This requires 50% or more of the beneficial/ultimate owners to be citizens of Canada.

The phrase “substantial trade” sometimes scares people away from the E-1. Substantial trade does not have to be

represented by a dollar amount. It is reflected by 50% of a business's international trade crossing the U.S.-Canadian border. This can be shown either in dollar amounts or the number of transactions. When dollar amounts are used, the trade totals can be rather reasonable to qualify for the E-1 visa—even as little as a few thousand dollars. Substantial trade also requires multiple transactions, so a single transaction, no matter the value, will not qualify. However, a single contract with multiple invoices issued under it can qualify.

The size of the business is not relevant to the issuance of an E-1 either. The Treaty Trader visa can be issued to personnel of a publicly traded company, a sole proprietor, and personnel of any type of company or business in between. When the first individual from the business qualifies for the visa, the business itself is also registered in the U.S. Department of State's "Canada E Visa Program" for a five-year period. Once a business is registered, the process for subsequent applicants under that same business is faster, easier, and more streamlined. The government filing fees for all applicants are substantially less than almost any other work-authorized U.S. nonimmigrant status as well, including L-1 Intracompany Transferees or H-1B Specialty Occupation workers. Another great benefit of the Treaty Trader visa is that the spouse of an E-1 visa holder is entitled to work in any job in the U.S. without requiring any kind of special work permit document. Spouses do not, therefore, have to apply separately for work authorization or find their own sponsor. All they need is the E-1 visa for which they qualify based on their legal marriage to an E-1 visa holder.

E-1 visas are usually issued for a five-year period, enabling the worker to enter the U.S. periodically or to live in the U.S. They are also renewable in five-year increments indefinitely, which permits for a long-term plan with the E visa. If, however, the E-1 visa holder is a sole proprietor (or if they run a very small service business) and plans to move to the U.S., those services will stop crossing the border. Applicants with this type of plan are advised to strategize early for what they plan to do when their five-year E-1 visa will expire.

E-1 visas are available for trade in goods and or services. There is no limit to the type of business and industry that can benefit from the E-1 Treaty Trader visa. Examples of successful "trade in goods" E-1 visa applications have included even such nuanced products as celebrity and sports memorabilia; art; textiles; equestrian products; greenhouse systems; theater equipment; wine and wine products; food, supplements, and packaging; highway equipment; and pet products. E-1 visas that have been issued for those trading in services have included installation of goods manufactured and sold from Canada; digital and technical services; logistics; professional and keynote speakers; chiropractic services; construction services; filmmaking; staffing; interior design and decorating; and strength training. Some examples of successful consulting E-1 visas include services for start-ups; healthcare; marketing; financial services; landscaping; human resources; athletics; and event planning.

For a wide swath of self-employed individuals and employees of businesses with qualifying ownership, the E-1 Treaty Trader visa is an efficient and effective work visa. The [Immigration Practice Team](#) at Lippes Mathias has extensive experience in obtaining E-1 visas for clients to work in the U.S. and enjoys representing clients in these applications.

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