

Unexpected things you can do in the U.S. as a B-1 business visitor



By [Eileen M. Martin](#)

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The B-1 Temporary Business Visitor classification is used by many people entering the United States. Most of those business visitors do not know how the law permits their entry though. They do what their employer tells them, what their neighbours do or what seems to make sense. Many of these visitors come to attend meetings, which is often an appropriate business visitor activity. However, there are many more things that business visitors can do.

B-1 business visitors can enter the United States to gain specifications for work to be conducted outside the U.S. This is permitted as set out in the 1965 case of a Hong Kong tailor who wanted to enter the U.S. to measure his clients to make the suits in Hong Kong. This case can be applied by analogy to a myriad of industries for which work is conducted abroad after gathering specifications in the U.S.

Sales personnel are permitted to enter the U.S. as business visitors to take orders and negotiate contracts for a business that is outside the U.S. as business visitors, as long as they do not deliver the sold products on the same trip. Selling of goods at a flea market, for instance, is never going to work as a B-1.

Transportation of goods or people is B-1 business visitor activity as long as all the goods or services are either loaded abroad to be delivered in the U.S., or are loaded in the U.S. and carried abroad. Domestic transportation of goods or services is not permitted.

The Canada-U.S.-Mexico (CUSMA a.k.a. USMCA) free trade agreement permits installation, repair, maintenance and training related to industrial/commercial goods sold from Mexico or Canada. The service contract must be incidental to the contract for goods, and the goods cannot be manufactured in the U.S. This after-sales service activity requires specific documentation when a foreign national applies for admission.

Supervisors or those engaging in training activities in the U.S. in the building or construction industry are permitted to enter as B-1 business visitors. These workers must otherwise qualify as business visitors, in that they should not be paid from a U.S. source, and their work should be for the benefit of a non-U.S. entity. No hands-on work is permitted.

Missionary work is permitted for members of a religious denomination for up to one year as a B-1 business visitor. It is critical that those B-1 business visitors are not engaged in the U.S. in selling of articles or soliciting or accepting donations. This includes those who exchange pulpits, provided they are paid from abroad. Similarly, participation in a voluntary service program that is religious or non-profit is B-1 activity.

Professional athletes enter the U.S. as B-1 business visitors when they come with a foreign-based team, when their pay is primarily generated abroad, and their play is as part of a league. Those coming to participate in equestrian roles for foreign horse owners as jockeys, sulky drivers, trainers and groomers can enter as B-1 business visitors. Single (not team member) athletes — and other entertainers — coming to compete for prize money qualify as B-1 business visitors as well.

Artists and musicians who enter to create art that will not be sold in the U.S. can qualify as B-1 business visitors. Similarly, photographers with no U.S.-sourced income qualify as B-1s.

Doctors entering the U.S. for observation can enter as B-1 business visitors. Medical students also qualify for elective clerkships as B-1s in limited circumstances.

A controversial use of the B-1 is for the B-1 in lieu of H-1B. A foreign national can qualify as an H-1B if he or she comes to the U.S. to engage in Specialty Occupation activities while getting paid from abroad if he or she normally works from an office abroad. This is controversial, as many U.S. government officers dislike this use of the B-1. When hundreds of thousands of foreign nationals are unsuccessful in the H-1B lottery annually, this use of the B-1 is often seen as a loophole.

There are other interesting B-1 activities that are permitted as well. If you have questions about B-1 business visitor status generally, or any of these unexpected exceptions, please contact our Immigration Practice Team for more information, Eileen M. Martin (emartin@lippes.com) or Elizabeth M. Klarin (eklarin@lippes.com).

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