

E VISAS



The U.S. maintains commerce and navigation treaties with various countries around the world to encourage mutual trade and business negotiations. U.S. Consulates, Embassies and U.S. Citizenship and Immigration Services (USCIS) grants visas for select work-authorized purposes for people originating from these treaty countries.

This section will cover:

- 1 E-2: Treaty Investor**
- 2 E-3: Certain Specialty Occupation Professional from Australia**

E-2: TREATY VISA

Who's Eligible

Foreign nationals sharing the same nationality as the company or person that owns the sponsoring U.S. entity may apply for an E-2 visa.

There are three types of individuals eligible for an E-2 visa:

- 1 A foreign national **investor with a sizable stake in a U.S. entity** (at least 50% ownership must be held at all times)
- 2 A **managerial or executive employee** of an investing corporation maintaining a controlling interest at all times, with at least 50% ownership
- 3 An **essential employee** of an investing corporation with key skills that allow for performing specific job functionalities

Treaty Countries

The nationality of both the employee and sponsoring U.S. company must be the same and be included in the list of E-2 visa treaty countries, which include:



Australia



Belgium



Colombia



Costa Rica



Czech Republic



Egypt

See the full list of treaty countries at

<https://travel.state.gov/content/travel/en/us-visas/visa-information-resources/fees/treaty.html>

Validity Period



Future Plans

We recommend that you speak to your attorney if the temporary nature of the assignment changes.

Government Fees

Consular application filing fee: \$205

USCIS petition filing fee: \$460. E-2 visas are typically applied for at a U.S. Consulate or Embassy abroad and can be extended with USCIS, as needed.

Premium processing: Employers can pay a **\$2,500 premium processing fee** when available and USCIS will adjudicate the E-2 petition, meaning that USCIS is required to approve, issue a Request for Evidence or deny the visa petition **within 15 calendar days**.

Dependents

Employees may be accompanied by their spouses or unmarried children under age 21 with the E-2 nonimmigrant dependent visa classification. The dependents' nationalities don't need to be the same as the employee or treaty investor, and they may study during their stay. Spouses in E-2 status are eligible to present a valid and notated Form I-94 in addition to a passport to evidence work authorization once they enter the U.S.

SPECIAL INVESTOR REQUIREMENTS

The investment must:

- ▶ Be sufficient to ensure the success of the operation
- ▶ Lead to a fully operational commercial or entrepreneurial undertaking
- ▶ Generate more income than to provide a living for the traveler's family, or it should majorly impact the U.S. economy
- ▶ Be at risk commercially and the funds must be controlled by the investor. Loans secured with assets don't qualify



Employer Document Checklist

- The non-U.S. entity's founding documents
- The U.S. petitioner's founding documents
- Documents demonstrating a qualifying relationship between U.S. petitioner and the non-U.S. entity
- Documentation evidencing ownership and nationality
 - ▶ If the U.S. company is owned by several individuals, in lieu of a foreign company, submit passports of all the owners.
- Documentation evidencing substantial investment by the foreign company to the U.S. company, such as bank deposits
- Organizational chart for the non-U.S. position
- Organizational charts for the U.S. position
- Job description

Employee Document Checklist

- Passport
- Any previous Form I-797 Approval Notices
- Resume or curriculum vitae
- Diploma
- Digital photo for DS-160, the Electronic Consular Application
- Any prior visa stamps
- Form I-94, if inside the U.S. and applying to USCIS

! The exact list of required documents varies between E-2 visa applications.

KEY EMPLOYER TAKEAWAYS

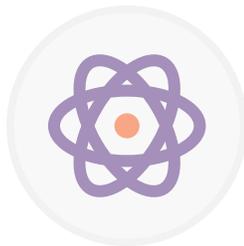
- !** Only foreign nationals from certain countries qualify for the E-2 visa category.
- !** The employee must either act in an executive or supervisory capacity, or have special, essential skills or qualifications.
- !** Only foreign nationals sharing the same nationality as the company or person that owns the sponsoring U.S. entity are eligible.
- !** The foreign entity must own or control the U.S. entity.

E-3: CERTAIN SPECIALTY OCCUPATION PROFESSIONAL FROM AUSTRALIA

Who's Eligible

This special visa classification is available to Australian citizens if:

- ❗ There's a legitimate offer of employment in the U.S.
- ❗ The individual possesses at least a **U.S. bachelor's degree** or its equivalent
- ❗ It will fill a **specialty occupation that requires a specific skill set or specialized knowledge**. Specialty occupations typically include: **health care, biotechnology, human resources, education, engineering, computer sciences, management, medicine, etc.**
- ❗ The U.S. employer must make attestations about the wage and working conditions in a Labor Condition Application, which is submitted to the Department of Labor.



Validity Period



Future Plans

We recommend that you speak to your attorney if the temporary nature of the assignment changes.

Government Fees

Consular application filing fee: \$205

USCIS petition filing fee: \$460. E-3 visas are typically applied for at a U.S. Consulate or Embassy abroad and can be extended with USCIS, as needed.

Premium processing: This expedited application processing feature is **not available** for E-3 visas that were applied for with USCIS.

Dependents

E-3 visa holders **may be accompanied by their spouses or unmarried children 21 years and under** with an E-3 nonimmigrant dependent visa classification. Spouses and minor children do not need to be Australian citizens. Dependents are allowed to study while in the U.S. Spouses in E dependent status are eligible to present a valid and notated Form I-94 in addition to a passport to evidence work authorization once they enter the U.S.

Employer Document Checklist

- Financial statements or annual report
- Catalogs, brochures and other types of marketing literature
- Detailed job description

Employee Document Checklist

- Passport
- Diploma
- Education evaluation, if degree is not from Australia or U.S.
- Previous visa stamps, if any
- Transcripts or marksheets
- Resume or curriculum vitae



KEY EMPLOYER TAKEAWAYS

- ❗ Only available to Australian citizens.
- ❗ A Labor Condition Application must be filed with the Department of Labor.
- ❗ For change of employment, the new employer must file a new Labor Condition Application.
- ❗ Premium processing is not available and USCIS processing times take three to five months, so it may be faster for the beneficiary to leave the U.S. and apply directly at the U.S. Embassy or Consulate abroad.



855-840-8046



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