



## E “Treaty” Visas

E nonimmigrant visas are available to nationals of countries that have a Treaty of Friendship, Commerce, and Navigation or a Bilateral Investment Treaty with the United States. These visas are generally issued for 5 years and, unlike other temporary work visas, can be renewed an unlimited number of times in 5-year blocks for executives and supervisors.

E visa travelers are admitted for 2 years at a time and can apply for extensions of stay in 2-year increments. They may also travel abroad and return to the U.S. for a new 2-year stay, even if the visa expires prior to the 2-year mark. A spouse and minor children qualify for the E visa through the main applicant, and the spouse can apply for work authorization.

In practice, the E category is often used by U.S. companies that are owned by nationals of a treaty country (“treaty nationals”) in order to bring aliens of that same nationality in managerial or other key positions for the U.S. company. E-visa employers include the U.S. subsidiary of a foreign parent company owned by treaty nationals, as well as a completely independent U.S. business established by treaty national owners. E-1 and E-2 status apply to individuals who qualify on the basis of their own business investments or trading activities, as well as to employees of foreign companies.

The E-1 treaty trader conducts substantial international trade principally between the United States and his or her home country. The E-2 treaty investor develops and directs the operations of an enterprise funded by a “substantial” investment.

The E-1 and E-2 treaty countries are as follows:

### Eligible for both E-1 and E-2 Status:

Argentina	France	Netherlands
Australia	Germany	Norway
Austria	Honduras	Oman
Belgium	Iran	Pakistan
Bolivia	Ireland	Paraguay
Bosnia	Italy	Philippines
Canada	Japan	Singapore
Chile	Jordan	Slovenia
Colombia	Korea	Spain
Costa Rica	Latvia	Suriname
Croatia	Liberia	Sweden
Estonia	Luxembourg	Switzerland
Ethiopia	Macedonia	Taiwan, R.O.C.
Finland	Mexico	Thailand

### Eligible for E-1 Status Only:

Brunei    Denmark    Greece    Israel

### Eligible for E-2 Status Only:

Albania	Egypt	Panama
Armenia	Georgia	Poland
Azerbaijan	Grenada	Romania
Bahrain	Jamaica	Senegal
Bangladesh	Kazakhstan	Slovak Republic
Bulgaria	Kyrgyzstan	Sri Lanka
Cameroon	Lithuania	Tobago
Congo	Moldova	Trinidad
Czech Republic	Mongolia	Tunisia
Ecuador	Morocco	Ukraine

## Requirements Applicable to All E Visas:

- The enterprise must be owned or controlled by Treaty Nationals. For E visa purposes, a company must have at least 50% ownership held by individuals or corporations having the treaty nationality. A joint venture or minority ownership may, in some instances, be sufficient to establish "control." For individual owners of the enterprise, their nationality is simply that of their country of citizenship. (Permanent resident aliens of the U.S. do not qualify as foreign nationals for purposes of the provision.) Where the enterprise has one or more corporate owners, the nationality of the corporate owner is the nationality of those persons who own at least 50% of the stock of the corporation.
- The person seeking to enter the U.S. must be of the same nationality as the qualifying enterprise. For example, a company owned by Japanese nationals can use the E category only for Japanese national employees.
- The employee must be coming to assume an executive, supervisory, or "essential skills" position. (Essential skills are evaluated in terms of the availability of U.S. workers and the transferability and uniqueness of the skills, among other factors.) The E visa (unlike the L visa) does not require one year of employment abroad prior to joining the U.S. company. In essence, the E visa transferee can be a "new hire."

## E-1 Treaty Trader Visa Requirements:

1. There must be a "substantial" volume of trade between the U.S. enterprise and treaty country.
2. Fifty percent of the total international trade of the U.S. enterprise must be transacted with the treaty country.

The meaning of the term "substantial" trade imposes no mandatory minimum monetary value and involves three factors: (a) monetary value of trade; (b) number of transactions and items traded; and (c) continuity of trade. Trade means the exchange, purchase or sale of items including goods, services, and technology, among others.

## E-2 Treaty Investor Visa Requirements:

1. A "substantial" investment must exist or be well underway in an ongoing, active enterprise producing some service or commodity for profit in the U.S. "Substantiality" of an investment requires no absolute minimum dollar amount, but must be of an amount normally considered necessary to create a viable enterprise of the type contemplated. If the purchase of an established business is involved, substantiality means "proportionate to the total value of the enterprise," which is generally 50% of the value or more.
2. An E-2 investment must be more than "marginal." An investment is generally more than "marginal" if it will expand U.S. job opportunities or generate income over and above the level needed to support the E-2 investor and his or her family.

The investment may consist of funds, equipment transferred to the enterprise, or retained earnings. Funds obtained by the investor through gifts or borrowing qualify. However, borrowed funds, if secured, cannot be secured by the assets of the enterprise.

## For Your Consideration

- For employees who are ineligible for E status, consider the L and H visa options, in that order.

## Business Immigration Department

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