



# U.S. Citizenship and Immigration Services

# Topics of Discussion

- E Nonimmigrant Visas
- L Nonimmigrant Visas
- O Nonimmigrant Visas
- P Nonimmigrant Visas
- Employment-Based Immigrant Visas



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# Overview of E-1

- 1) Must be a national of treaty country
- 2) There must be substantial trade
- 3) Trade is principally with treaty country
- 4) E-1 employees must have executive/supervisory or essential skills
- 5) Must intend to depart the U.S.
- 6) Dependents



# Overview of E-2

- 1) Must be a national of treaty country
- 2) E-2 investor has invested or is in the process of investing in the enterprise
- 3) The business must be a bona fide enterprise and not marginal
- 4) The investment must be substantial
- 5) E-2 investors must direct and develop the enterprise
- 6) E-2 employees must have executive/supervisory or essential skills
- 7) Must intend to depart the U.S.
- 8) Dependents



# Overview of E-3

- 1) Numerical Limitation (Annual Cap)
- 2) Labor Condition Application (LCA)
- 3) A job offer in the U.S.
- 4) A specialty occupation
- 5) Australian citizenship



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# L-1 Intra-company Transferee

- General Information:
  - A Labor Certification is not required
  - Allows a qualifying organization to petition for an alien who within the preceding three years has been employed abroad for one continuous year by a qualifying organization to be admitted temporarily to the United States to be employed by a parent, branch, affiliate, or subsidiary of that employer in a managerial or executive capacity, or in a position requiring specialized knowledge.
  - The qualifying organization may be a new office that is being opened or a pre-established office in the U.S.
  - The employer may petition for an employee through an individual petition process or through a blanket petition process.
  - Spouses and unmarried children under the age of 21 are eligible for an L-2 visa.
  - The L1 visa classification is divided into two separate visa classifications, L1-A for managers and executives and L1-B for an employee in a specialized knowledge capacity.



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# L1-A Managerial and Executive

- The L1-A is the classification for intra-company transferees who are coming to the United States to work in a managerial or executive capacity.
- **Managerial capacity** means an assignment within an organization in which the employee primarily: (1) manages the organization, or a department, subdivision, function, or component of the organization; (2) Supervises and controls the work of other supervisory, professional, or managerial employees, or manages an essential function within the organization, or a department or subdivision of the organization; (3) Has the authority to hire and fire or recommend those as well as other personnel actions, or if not directly supervising employees, functions at a senior level within the organizational hierarchy or function managed, and (4) Exercises discretion over the day to day operations of the function for which the employee has authority.
- **Executive Capacity** means an assignment within the organization in which the employee: (1) Directs the management of the organization or a major component or function of the organization; (2) Establishes goals and policies; (3) Exercises wide latitude in discretionary decision making; and (4) Receives only general supervision or direction from higher level executives, the board of directors, or stockholders of the organization.
- **Maximum period of stay:** An L1-A has a maximum stay in the U.S. of seven years.



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# L1-B Specialized Knowledge

- The L1-B is the classification for intra-company transferees who are coming to the United States to work in a specialized knowledge capacity.
- **Specialized Knowledge Capacity** is defined as specialized knowledge possessed by an individual of the petitioning organization's product, service, research, equipment, techniques, management, or other interests and its application in international markets, or an advanced level of knowledge or expertise in the organization's processes and procedures.
- **Maximum period of stay:** An L1-B has a maximum stay in the U.S. of five years.



# O-1 Alien of Extraordinary Ability in Arts, Science, Education, Business, or Athletics

- Extraordinary ability in the field of science, education, business, or athletics means a level of expertise indicating that the person is one of the small percentage who have arisen to the very top of the field of endeavor.
- Extraordinary achievement with respect to motion picture and television productions, means a very high level of accomplishment in the motion picture or television industry evidenced by a degree of skill and recognition significantly above that ordinarily encountered to the extent that the person is recognized as outstanding, notable, or leading in the motion picture or television field.
- Extraordinary ability in the field of arts means distinction. Distinction means a high level of achievement in the field of arts evidenced by a degree of skill and recognition substantially above that ordinarily encountered to the extent that a person described as prominent is renowned, leading, or well-known in the field of arts.



# P Categories

- P-1:
  - A - Individual Athletes or Athletic Teams
  - B - Entertainment groups
- P-2: Artist or Entertainer under a Reciprocal Exchange Program
- P-3: Artist or Entertainer under a Culturally Unique Program P-1S:
  - Essential support of P-1
- P-2S: Essential support of P-2
- P-3S: Essential support of P-3
- P-4: Spouse and/or Child of P-1, P-2, or P-3 (Form I-539)



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# Employment Based Immigrant Visas

- **EB-1 Alien of Extraordinary Ability Visas. [INA §203(b)(1)(A). 8 CFR 204.5(h).]**

Petitions that are filed under this category must demonstrate that:

- (i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,
- (ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and
- (iii) the alien's entry into the United States will substantially benefit prospectively the United States.

- **EB-2 Visas. [INA §203(b)(2). 8 CFR 204.5(k).]**

- The I-140 petitioner must submit evidence to establish that:
- the position must require an advanced degree or exceptional ability;
- the petitioner has the ability to pay the wage offered unless the petition includes a national interest waiver request; and
- There is a valid job offer.



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- **EB-2 National Interest Waivers (NIW). [INA §203(b)(2)(B). 8 CFR 204.5(k) & 204.12.]**
  - In order for an alien to qualify for an NIW it must first be established that the alien is an advanced degree professional or an alien of exceptional ability as stated in 8 CFR 204.5(k)(3)(i) shown above.
- **EB-3 Skilled Worker and Professional Visas. [INA §203(b)(3)(i) & (ii). 8 CFR 204.5(l).]**
  - The E31 “**skilled workers**” classification applies to any position that requires at least two years of training or experience not of a temporary or seasonal nature for which qualified workers are not available in the United States. Relevant post-secondary education may be considered to be training.
    - An I-140 petition for a skilled worker must establish:
      - That the position requires at least two years of training or experience;
      - That the petitioner can demonstrate the ability to pay the offered wage;
      - That the petition is accompanied by a Labor Certification (Form 9089) which has been certified by the Department of Labor; or an uncertified ETA Form 9089 that has been submitted as a blanket labor certification under Schedule A.



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- The E32 “**professional**” classification means a qualified beneficiary who holds at least a U.S. baccalaureate degree or a foreign equivalent degree and who is a member of the professions.
- An I-140 petition for a professional must establish:
  - That the position requires at least a U.S. baccalaureate degree or a foreign equivalent degree and an individual who is a member of the professions;
  - That the petitioner can demonstrate the ability to pay the offered wage;
  - That the petition is accompanied by a Labor Certification (Form 9089) which has been certified by the Department of Labor; or an uncertified ETA Form 9089 that has been submitted as a blanket labor certification under Schedule A.



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