

E1 Visa Guide: Everything You Need to Know About the E1 Visa

The E1 is a special visa for business people from certain treaty countries. The E1 visa allows someone to work in the U.S. and carry out substantial trade between individuals and firms in the United States and the country of which they are a citizen or national.

In this guide, I will explain the important aspects of the E1 visa. If you have any questions, feel free to email me directly at Info@immigrationlawfirmlltd.com. I'm very responsive via email and I'd be happy to help you.

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1. What is the E1 Visa?

The E1 visa is a special visa for business people from certain “treaty countries.” The E1 visa allows someone to work in the US and carry out substantial trade between individuals and firms in the United States and the country of which they are a citizen or national. This trade can be in a wide range of industries including transportation, communication, banking, advertising, and management.

2. What are the benefits of the E1 Visa?

There are many benefits to the E1 Visa. A few of these benefits are as follows.

- You can legally work in the United States.

- You can travel freely in and out of the United States.
- The visa can be renewed indefinitely for up to two years at a time
- Your spouse and dependent children (children who are unmarried and under 21 years of age) can also qualify for E1 status. With E1 status, your children can go to school and your spouse can apply for employment authorization (the EAD: Employment Authorization Document).

3. What are the requirements to get the E1 Visa?

There are multiple requirements that must be met to be eligible for an E1 visa. An immigration lawyer can help determine if you satisfy these requirements.

1. You must be a national of a country with which the United States maintains a treaty of commerce and navigation.

The E1 visa is only available to nationals of specific countries. As of the time of publishing, nationals of the following countries are eligible to apply for the E1 Visa: Argentina, Australia, Austria, Belgium, Bolivia, Bosnia and Herzegovina, Canada, Chile, China (Taiwan), Colombia, Costa Rica, Croatia, Denmark, Estonia, Ethiopia, Finland, France, Germany, Honduras, Iran, Ireland, Israel, Italy, Japan, Jordan, South Korea, Kosovo, Latvia, Liberia, Luxembourg, Macedonia, Mexico, Montenegro, Netherlands, Norway, Oman, Pakistan, Philippines, Serbia, Singapore, Slovenia, Spain, Suriname, Sweden, Switzerland, Thailand, Togo, Turkey, and the United Kingdom.

Additionally, if the treaty trader is a business (rather than an individual), at least 50% of the business must be owned by nationals of the treaty country. Only employees who are nationals of that treaty country are eligible for the E1 visa. There are two exceptions to this rule:

- If the business is owned equally by nationals of two treaty countries, it can be considered a joint venture. In this situation, nationals of either of these two countries are eligible for an E1 visa.
- In some situations, the treaty between the US and the treaty country extends to certain territories and possessions beyond the treaty country (for example, the United Kingdom). In these cases, residents of these locations may be eligible for an E1 visa.

2. The work you are conducting must be considered “trade”

In order for someone to be eligible for a E1 visa, the work they are conducting must be considered trade. According to the US Department of State, trade requires there to be: (1) a “meaningful” exchange, (2) international in scope, and (3) a qualifying commodity such as goods, money, or services. Additionally, there must be existing trade between that individual or entity and the United States.

3. The trade must be substantial

In order to qualify for the E1 visa, the trade being conducted must be considered substantial. Substantial trade is defined as trade “sufficient to ensure a continuous flow” between the US and the treaty country. This means

consular officers granting E1 visas will be focused on the number of transactions more than the monetary value.

4. The trade must be principally between the United States and the treaty country.

For the trade to be principally between the US and the treaty country, 50% or more of the volume of international trade conducted by the treaty trader must be between the US and the treaty country.

5. You must be vital to the success of the company.

In order to be granted the E1 visa, you must not only be of the same nationality of the primary employer and have evidence of being legally employed, but you must have valid evidence to show you are necessary for the company to run efficiently. This could include your role and qualifications as a supervisor, manager or executive, or otherwise having special qualifications.

6. You must provide evidence that you plan on departing the US following the termination of your E1 visa status.

Although you are not required to provide evidence that you will maintain property abroad, you must demonstrate that you will leave the United States upon the termination of your E1 visa status. This can come in the form of a declaration.

4. E1 Visa Process

Applying for an E1 visa is a multi-step process. The following will explain the process of applying for an E1 visa. An immigration lawyer can help you through this process.

Applying for an E1 can be done either from within the US through USCIS or from outside the US through a US Consulate. Regardless of which method you choose, some documents will be required:

- Form G-28: The Form G-28 is the Notice of Entry of Appearance as Attorney or Accredited Representative. This document is filled out by your attorney or representative and shows they are eligible to act on your behalf;
- Passport or copy of biographic page of passport;
- Evidence you meet the conditions to be eligible for E1 status;
- Information about the business, such as what business they conduct, what their scope of business is, and who owns the business;
- US Company Support Statement: The US Company support statement comes from your US employer and explains why your services are necessary for the enterprise's activities;
- Evidence you intend to leave following the termination of E1 status.

Applying for E1 Visa

If you are outside the US, you will have to apply for an E1 visa at a consulate or embassy abroad. To apply for an E1 visa, you should work with an experienced immigration attorney to collect and prepare all of the necessary documentation to submit with your application. Please be aware that different consulates have different requirements on the types of documentation required and how the documentation is to be organized and presented. Make sure to check the consulate website to ensure your paperwork is submitted correctly. Additionally, please be aware that most consulates do not accept third country nationals and you may likely need to go through your national country's consulate.

Once all of the necessary documentation is assembled, your attorney will complete the Form DS-160 on your behalf. The Form DS-160: Form DS-160 is the Online Non-immigrant Visa Application. The information on this document helps consular officers determine if you are eligible for a non-immigrant visa, such as the E1 visa.

Your attorney will also complete a Form DS-165E on your behalf. The Form DS-165E is the Non-immigrant Treaty Trader/Investor Application. In this form, you provide information about the company and yourself. This document also helps consular officers determine if you should be granted an E1 visa.

Your attorney will then submit your complete E1 visa application along with all supporting documentation directly to the consulate.

At the appropriate time, you will then schedule a personal interview with consular officer. Your attorney should prepare you for what to expect at the visa interview.

At the interview, you may be asked various questions about your E1 business, your personal background, immigration plans, etc. Following successful completion of the interview, you should have the E1 visa stamped into your passport within a few days.

With the E1 visa, you will be able to enter the United States based on the terms of the visa. Upon entry to the U.S. you will receive E1 status.

Change of Status

If you are inside the United States in a valid non-immigrant status, and have maintained continuous non-immigrant status, you may be eligible to request a change of status to E1 status. This is done by filing a change of status petition with USCIS.

To file a change of status, you should work closely with an experienced immigration lawyer. Your immigration lawyer will work with you to compile all of the necessary documentation required to process the change of status request.

Your lawyer will also complete the Form I-129 on your behalf. The Form I-129 is the Petition for a Non-immigrant Worker. You must also complete the E-supplement of this form.

In addition, you may wish to file a Form I-907. The Form I-907 is a Request of Premium Processing Services. This document can be filed to request faster processing of your application.

Once all of the documents are compiled and the forms are completed, your attorney will submit the completed application to USCIS, along with a copy of biographic page of passport and a copy of your I-94 card.

Upon approval of your change of status, you will receive E1 status. This is not a visa. Through the approved change of status, you will receive a new I-94 reflecting your new E1 status and the date through which your status is valid.

The entire change of status process takes place from within the U.S.

5. What documents are required for the E1 Visa?

Many documents may be required during the E1 visa application process. The following is a list of some of the documents that may be required. Please be aware this is only a general list and the documents required will vary depending on the individual situation. An immigration lawyer can help you determine which documents are required for you specifically based on your particular circumstances.

- Information proving the ownership and nationality of the business (such as, but not limited to, Articles of Incorporation, Articles of Organization, certificates of ownership, Annual Reports, stock exchange listings, and/or a statement from certified accountant);
- Information proving evidence of substantial trade (such as, but not limited to, contracts, receipts, inventories, financial statements, and/or copies of business plans);
- Evidence that you intend to return to your home following your stay in the United States (such as, but not limited to, a property deed, a signed statement, evidence of plans in a foreign country upon termination of E1 visa status);
- Form DS-160;
- Form DS-165E;
- Form I-129;
- Form I-907;
- Form G-28;
- Valid passport or copy of biographic page from passport;

- I-94 Card;
- Valid visa photo;
- Receipts showing you have paid fees;
- Visa appointment letter;
- Letter from employer.

6. E1 Visa Fees

E1 Visa

If you are applying for an E1 visa, the visa application fee: \$205 per applicant.

Change of Status

If you are applying for a change of status, the filing fee for the Form I-129 is \$460. There is also an **optional** additional fee of \$1,440 for premium processing. With premium processing, you can expedite the processing of your application to receive a response within 15 calendar days.

If you have dependents, such as a wife and children, that will be included with your change of status, there will be an additional fee of \$370.

7. E1 Visa Processing Time

E1 Visa

The overall time it takes to process your E1 visa can vary depending on many factors, including the time of year and the individual consulate you use. With that said, a general estimate on a timeline can be somewhere around 2-3 months for an E1 visa application.

Change of Status

For a change of status through USCIS, the average length for a petition to be processed is about 6-8 months. With the optional premium processing, you can receive a response on your application within 15 calendar days.

8. E1 Extension

The E1 visa is only valid for 2 years; however, there is no limit to the number of extensions you can apply for. To apply for an extension of status, here are some forms you may need to file with USCIS:

- Form I-129: Form I-129 is the Petition for a Non-immigrant Worker. This document requests that a foreign national be allowed to work for a temporary period in the United States.
- Form I-539: Form I-539 is the Application to Extend/Change Non-immigrant Status. This document requests an E1 extension of status for your dependents.

Please note that if employment duties or ownership of the company changes, or if your employment ceases, you will be required to update your paperwork. Please be aware that, under an E1 visa, a treaty trader may only work in the activity for which they were originally approved.

Employees with an E1 visa may work for the treaty organization's parent company or subsidiaries as long as there is an established relationship and the employment requires executive, supervisory, or essential skills.

I, or someone from my team, would be happy to discuss your E1 options with you and help you with any additional questions.

9. Conclusion

The E1 visa is a special visa for business people from certain treaty countries. The E1 visa allows to work in the US and carry out substantial trade between

individuals and firms in the United States and the country of which they are a citizen or national. You should now have a much stronger understanding of the various aspects of the E1 visa, including the E1 visa benefits, the E1 visa requirements, and the E1 visa process.

If you have any questions on any of the information discussed in this guide, feel free to email me directly at Info@immigrationlawfirmlltd.com. I'm very responsive via email and happy to help you.