

E2 Visa Guide: Everything You Need to Know About the E2 Visa

The E2 Visa is a great option for investors and entrepreneurs. With an E2 visa, you can live in the United States, start a US business, and work for your business.

In this guide, I will discuss what you need to know about the E2 visa.

If you have any questions about the E2 visa, feel free to email me directly at Info@immigrationlawfirmlltd.com. I'm very responsive via email and would be happy to answer your questions.

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2. What are the Benefits of an E2 Visa?
3. What are the E2 Visa Requirements?
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1. What is the E2 Visa?

The E2 visa is a non-immigrant visa for investors, entrepreneurs, and people looking to run a business in the United States. With an E2 visa, you can start a US business or invest in a US business and operate that business.

To get an E2 visa, you must invest a substantial amount of capital into a US business and you must direct and develop that business. You can either start a new business or invest in an existing business to qualify for an E2 visa.

The E2 visa is only available to people from certain countries that have an E2 treaty with the United States (we will go over the countries that qualify for an E2 visa down below).

There is no limit to the number of times the E2 visa can be renewed. So as long as the E2 business continues to operate and meet the E2 visa requirements, an E2 visa holder can continue to renew their visa and live and work in the United States.

Summary

- The E2 visa is a non-immigrant visa for investors.
- You qualify for an E2 visa by making a substantial investment in a US company.
- The E2 visa can be renewed over and over as long as the business continues to operate and meet the E2 requirements.

2. What are the Benefits of an E2 Visa?

Key Benefits of the E-2 Visa

With an E2 visa, you can start a business in the United States and operate that business.

By getting an E2 visa, your spouse and unmarried children under 21 years old can also qualify for E2 visas.

Your spouse can get work authorization to work in the United States.

Your children can go to school in the United States.

There is no set minimum investment amount to qualify for an E2 visa. Investments as low as \$50,000 or even lower have qualified for E2.

There is no limit to the number of times you can extend your E2 visa. Some E2 visa holders stay in the United States for 15 years or longer.

Unlike other non-immigrant visas, you do not need to maintain a foreign residence to get an E2 visa.

3. What are the E2 Visa Requirements?

Who is Eligible for an E2 Visa?

To be eligible for an E2 visa, you must be a national of a treaty country, make a substantial investment in an active, for-profit U.S. business, intend to depart the U.S. when your E2 status ends, and meet other legal requirements outlined below.

There are 8 main requirements to qualify for an E2 visa:

- You must be a national of a country with an E2 treaty with the United States.
- You must have the intent to depart the US once your E2 status ends.
- You must make a substantial investment in a US company.
- Your E2 business must be an active, for-profit business.
- The business that you invest in cannot be considered a marginal enterprise.
- You must be entering the United States to direct and develop your E2 business.
- The source of your investment funds must be lawful.

- Your investment must be irrevocably committed to the E2 business and must be at-risk.

i. You must be a national of a country with an E2 treaty with the United States.

To get an E2 visa, you must be a national of a country that has a qualifying treaty with the United States.

To explain this concept, let's break this requirement into 2 sub-categories:

- Nationality
- Treaty with United States

Nationality

You must have the nationality of a country with a qualifying treaty with the United States.

You typically have the nationality of the country of your citizenship.

If your nationality is unclear, the nationality laws of your home country and the language of your home country's treaty with the US will determine whether you qualify as a "national."

There are two ways to qualify for an E2 visa:

- You can make an investment in a US business as an individual
- Or your foreign business can make an investment in a US business

Investment as an Individual

If you are investing in a US business as an individual, then you will be considered the E2 principal investor.

Your country of citizenship will determine whether you satisfy the nationality requirement.

If you are a dual national (you hold nationality of two countries) you may still qualify for an E2 visa. You will have to apply for the E2 visa based on the nationality of the treaty country.

Investment by Foreign Business

If your foreign business is making the investment in the US business, the foreign business will be considered the E2 principal investor.

The nationality of the business is determined based on the individual owners of the business.

To qualify for E2, the business must be at least 50% owned by nationals of the treaty country.

If less than 50% of the business is owned by nationals of the treaty country, it may still qualify for E2 if the business is restructured so that treaty nationals own at least 50% of the business.

Qualifying Treaty with the United States

The second part of this requirement is that there must be an E2 treaty between the US and the E2 investor's country of nationality.

Here's a complete list of all the countries that have an E2 treaty with the United States:

- Albania
- Argentina
- Armenia
- Australia
- Austria
- Azerbaijan
- Bahrain

- Bangladesh
- Belgium
- Bolivia
- Bosnia and Herzegovina
- Bulgaria
- Cameroon
- Canada
- Chile
- Colombia
- Congo (Brazzaville)
- Congo (Kinshasa)
- Costa Rica
- Croatia
- Czech Republic
- Denmark
- Egypt
- Estonia
- Ethiopia
- Finland
- France
- Georgia
- Germany
- Grenada
- Honduras

- Ireland
- Israel
- Italy
- Jamaica
- Japan
- Jordan
- Kazakhstan
- Kosovo
- Kyrgyzstan
- Latvia
- Liberia
- Lithuania
- Luxembourg
- Mexico
- Moldova
- Mongolia
- Montenegro
- Morocco
- Netherlands
- New Zealand
- Norway
- Oman
- Pakistan
- Panama

- Paraguay
- Philippines
- Poland
- Portugal
- Romania
- Serbia
- Senegal
- Singapore
- Slovak Republic
- Slovenia
- South Korea
- Spain
- Sri Lanka
- Suriname
- Sweden
- Switzerland
- Taiwan
- Thailand
- Togo
- Trinidad & Tobago
- Tunisia
- Turkey
- Ukraine
- United Kingdom

- Yugoslavia.

Here are some major countries that do not have an E2 Treaty with the US:

- Brazil
- China
- India
- Russia

ii. You must have the intent to depart the US once your E2 status ends.

To get an E2 visa, you must have the intent to depart the United States once your E2 status ends.

For many non-immigrant visa categories, you are required to prove that you have non-immigrant intent.

To prove non-immigrant intent you are usually required to show strong ties to your home country, such as having a foreign residence, family in your home country, etc.

This is not required for an E2 visa.

For the E2 visa, in many cases, you can satisfy the "intent to depart" requirement by submitting a signed statement that you intend to depart the United States once your E2 status ends.

If you need any help with this, feel free to email me directly at Info@immigrationlawfirmllc.com

iii. You must make a substantial investment in a US company.

To qualify for an E2 visa, you must make a substantial investment in a US company.

The regulations do not specify a minimum investment amount that qualifies as substantial.

The Foreign Affairs Manual specifically states: “No set dollar figure constitutes a minimum amount of investment to be considered ‘substantial’ for E-2 visa purposes.” [\[9 FAM 402.9-6\(D\)\]](#)

Instead, a proportionality test is used to determine whether an investment is substantial or not.

Proportionality Test

The proportionality test compares 2 numbers: the amount of money you actually invest in your business and the total value of the business.

The value of an existing business is typically its purchase price.

The value of a start-up is the total cost to bring the business to the point of being operational.

To determine if your investment is substantial or not, the immigration official working on your case will calculate the proportion between how much you actually invested in the business to the total value of the business.

For businesses with a lower value, your investment should be a very high percentage of the total value of the business to be considered substantial.

For businesses with a very high value, your investment may be a lower percentage of the total value of the business, to be considered substantial.

Unfortunately, there are no exact percentages used to determine what is substantial.

If the total value of your business is \$100,000 or less, your actual investment should be 100% of the total value of the business, to be considered substantial.

On the opposite end of the spectrum, if the total value of your business is very high (for example \$10,000,000), an investment of \$5,000,000 would very likely be considered substantial even though proportionately it is only 50% of the total value of the business.

If you have any questions on your particular business, and whether your investment will be considered substantial, please email me directly at Info@immigrationlawfirmlltd.com. I'd be happy to help analyze your

investment

Rule of Thumb

As a general rule of thumb, at my firm, I like to see that at least \$100,000 is invested in the business and put at risk.

However, investments for \$50,000 and even lower have qualified for E2.

The higher your investment is, the better chance that your investment will be considered substantial, and the stronger your case will be.

How Much Money Do I Need for an E2 Visa?

While there is no official minimum, many successful E2 cases involve investments of at least \$100,000. However, lower amounts—sometimes as low as \$50,000—can qualify depending on the business's value and the proportionality test.

iv. Your E2 business must be an active, for-profit business.

The business invested in for an E2 visa must be an active, for-profit, business. The business must conduct some sort of entrepreneurial activity.

Examples of businesses that would meet this requirement include companies that sell some kind of a product or service for profit.

Passive investments will not qualify. This means that an investment in a parcel of residential real estate, or an investment in the stock market will not work.

v. The business that you invest in cannot be considered a marginal enterprise.

To qualify for an E2 visa, the E2 business invested in cannot be a marginal enterprise.

A marginal enterprise is a business that does not have the present capacity or the future capacity to generate enough income to provide more than a minimal living for the E2 investor and their family. [[CFR Section 214.2\(e\)](#)]

Even if the business does not have the capacity to generate enough income, if it has a present or future capacity to make a "significant economic contribution" it is not a marginal enterprise. [[CFR Section 214.2\(e\)](#)]

There are 2 ways to prove that the E2 business is not a marginal enterprise:

- Show that has the present or future capacity to generate more than enough income to provide a minimal living to you and your family.
- Show that the business has the present or future capacity to make a "significant economic contribution." You can prove this by showing that the business either currently employs or will employ multiple workers.

[vi. You must be entering the United States to direct and develop your E2 business.](#)

As an E2 investor, you are required to seek entry into the United States for the sole purpose of directing and developing the E2 business.

You can satisfy this requirement by showing that as the E2 investor, you own at least 50% of the E2 business.

If you do not own at least 50% of the E2 business, you can still satisfy the requirement by showing that you have operational control of the business.

You can show operational control by having a managerial position within the business. Other similar ways may also work.

You cannot be a passive investor and qualify for an E2 visa.

If a foreign business entity is the E2 investor, it must show that it is directing and developing the E2 business.

E2 employees do not have to show that they are seeking entry into the United States to direct and develop the E2 business.

If two parties own equal shares in the business entity (50/50), they can still meet the “direct and develop” requirement. Both parties must have full management rights and responsibilities.

As an E2 investor, your role with the company should be to direct and develop the company, rather than doing the day-to-day activities of the company. For example, if you are opening a cafe for your E2 business, you should not be the barista of the cafe making cappuccinos. Rather, you should be the one directing and developing the operation.

vii. The source of your investment funds must be lawful.

The funds that you use to invest in your E2 business must have been obtained lawfully.

Examples of lawful sources of funds include earnings from lawful employment, income from the sale of a property, gifts, an inheritance, etc.

You can also use the proceeds from a loan as your investment funds. The loan must be either unsecured or secured by your personal assets.

Loans secured by the assets of the E2 business will not qualify.

You must be able to sufficiently document how the funds were earned.

viii. Your investment must be irrevocably committed to the E2 business and must be at-risk.

To get an E2 visa, you must make an investment that is at risk and your investment funds must be irrevocably committed to the E2 business.

Basically, what this means is that your investment funds should actually be spent toward the business and should not just be sitting in your operating account.

At Risk

To satisfy the at risk requirement, your E2 investment funds must be subject

to either partial or total loss.

This means that there can be no guarantee that you will get any part of their funds back.

To determine whether your investment is truly at risk, you can ask yourself the following question: If the E2 business fails, how much money would be lost?

Investment is Irrevocably Committed

Your investment funds must be already invested in the E2 business at the time of filing or they must be in the process of being invested in the E2 business at the time of filing.

You must also be close to starting actual business activities.

This is to ensure that you, as the E2 investor, are committed to the success of the E2 business.

Your intent to invest, without a present commitment is insufficient. Also, putting the investment funds in a bank account, without an actual commitment, is not enough to qualify for an E2 visa.

That said, a reasonable amount of funds kept in a business operating account can qualify toward your investment capital.

To meet the irrevocable standard, in certain cases, you may be able to place the investment funds in an escrow account. The release of the funds can be solely conditional on the approval of your E2 visa or E2 change of status.

4. What is the Process of Getting an E2 Visa?

There are three main stages of the E2 visa process that determine how long it will take:

- Document Gathering
- Legal Preparation
- Consular Processing or Change of Status

Document Gathering

Once you hire an immigration attorney, they will review your case. They will then provide you with a list of all the documents they need from you to file your E2 visa application.

The gathering of documents takes clients around 1 month. This can be much faster or slower depending on you.

Legal Preparation

Once you send the documents to your immigration attorney, they will take about two weeks to prepare and complete everything. They will then file your completed E2 petition.

Consular Processing/Change of Status

Your application will then be sent to the U.S. consulate of your home country (consular processing). Or, if you are in the U.S., you can change status to E2 status (change of status) by sending your application to USCIS.

Consular processing takes around 1–4 months, depending on the consulate's workload and country-specific factors.

A change of status through USCIS takes roughly 6 to 8 months. You can choose to speed up the process by paying an extra fee for premium processing. This will reduce the total processing time to 15 business days with a \$2,805 fee. A request for additional evidence (RFE) can slow down this process.

Keep in mind: If you select Premium Processing, USCIS only has to issue a response within 15 days. USCIS can send a request for more evidence if they believe your application is missing something or if they are confused about something.

5. What are the Differences Between Doing a Change of Status to E2 and Getting an E2 Visa?

There are many factors that you should consider before you decide whether to change status or go through consular processing. Before you decide which option to choose, you should discuss with an immigration attorney.

Here are a few factors to consider...

Are you lawfully present in the US?

Filing for a Change of Status is only available to non-immigrants who are lawfully present in the US

If you are abroad you will not qualify for a Change of Status.

How quickly do you need the E2 visa?

One of the reasons some people choose to do a Change of Status is because of the speed of processing.

USCIS offers Premium Processing. This means that a Change of Status can be processed in as little as 15 days. Consular Processing can take much longer.

Will you need to travel outside of the US?

Keep in mind that if you change status to E2 status, once you leave the United States, you will lose that status.

To re-enter the US under E2 status, you will have to get an E2 visa at a US Consulate abroad.

US Consulates do not base their decision on a prior approved E2 Change of Status from USCIS. So you will be applying all over again for an E-2 visa at the consulate. You will have to re-submit the documents proving that you meet the E2 requirements.

How much are you investing?

Some consular posts are more strict than others and will want to see a higher investment amount, to qualify as a 'substantial' investment.

If your consular post is strict, you may want to change status. This is so that you can grow your E2 business. Then, at that time, you can apply for an E2 visa abroad with more funds invested in the business.

Keep in mind that this strategy can also work against you if your E2 business does not perform as well as you expect. In this situation, the consular post would have two years of actual business activity to judge your business on.

6. How Long Does it Take to Get an E2 Visa?

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- Consular Processing or Change of Status

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7. How Long Can I be in the US on an E2 Visa?

The length of time your E2 visa is valid for depends on the country issuing the visa. The period of visa validity generally ranges from 3 months to 5 years.

If your E2 visa is valid for 5 years, this does not mean that you can stay in the US for 5 years at a time.

Your status (not your visa) determines how long you can stay in the US at any one time.

With an E2 visa, you are generally granted 2 years of status each time you enter the US.

With a valid multiple entry E2 visa, you can exit and re-enter the US to get an additional 2 years of status.

There is no limit to the amount of times you can renew your E2 visa.

You can continue to renew your E2 visa as long as your company meets all the E2 visa requirements.

How Long is an E2 Visa Valid For?

The E2 visa validity depends on your country of nationality and the U.S. reciprocity schedule, ranging from 3 months to 5 years. Each entry grants 2 years of status in the U.S., renewable indefinitely if requirements are met.

8. If I Get an E2 Visa, Do My Family Members Get Immigration Benefits?

Yes, as the principal E2 visa applicant, your spouse and unmarried children under 21 years old can also qualify for E2 visas.

Your spouse will get work authorization incident to their E2 status. This means that an E2 spouse automatically has work authorization once they enter the US on their E2 visa or once their E2 change of status is approved. With this work authorization, an E2 spouse may work in any lawful capacity in the United States.

An E2 spouse does not have to separately apply for work authorization, as they automatically receive work authorization based on their E2 status as the spouse of the principal E2 applicant.

Your children may attend school in the US but they may not work.

9. Can I Get an E2 Visa as an Employee of the E2 Business?

Yes, a non-citizen may get an E2 visa through employment with an E2 business enterprise.

There are generally 3 classes of employees that can get an E2 visa:

1. Executive Employees
2. Supervisory Employees
3. Employees with Special Skills that are Essential to the E2 Enterprise

10. How to Go From an E2 Visa to Green Card

There are a few things to go over:

The E2 visa is a non-immigrant visa category. This means that the E2 visa is temporary and does not directly lead to a green card.

So, to get a green card you will have to apply for an immigrant visa or adjust status to lawful permanent resident status.

Remember, the E2 visa requires you to have the intent to depart the United States once your E2 status is terminated.

Still, you cannot be denied E2 status just because you get approved for an immigrant visa petition.

You can apply for an immigrant visa or adjust status in the US while you have an E-2 visa.

This is highly technical and it is very important that these steps are taken with the appropriate legal strategy and attorney supervision.

Now that you know the basic issues, let's discuss some different green card options.

Green Card Options:

EB-5 Visa

The EB-5 visa is an investment based immigrant visa. This means that it leads to a green card.

The EB-5 visa requires that you invest a minimum of \$1,050,000 in a U.S. business, or \$800,000 if the investment principally does business in a Targeted Employment Area (TEA). Your investment must also lead to the creation of 10 full-time jobs for U.S. workers.

The benefit of transferring from an E2 visa to an EB-5 visa is that in some

cases, your investment to get the E2 visa may count for your EB-5 visa.

Also, if you've created jobs for your E2 business, these jobs may also count toward the requirement to create jobs for your EB-5 visa.

If you already invested a lot of capital in the E2 business, and created enough jobs, you may be well on your way to qualify for an EB-5 visa.

Family Based

Your close family members that are US citizens or lawful permanent residents may potentially be able to petition for your green card (for example, your spouse, parent, child, or sibling) depending on the specific circumstances.

Spousal

You may qualify for a green card if you enter into a bona fide marriage with a U.S. citizen or lawful permanent resident. You may marry a U.S. citizen while on an E2 visa. If the marriage is bona fide, you may be eligible to apply for a green card through marriage-based adjustment of status, though USCIS closely scrutinizes such cases to ensure legitimacy.

Employment Based

You may qualify for a green card if a US company offers you a full-time job and petitions for your green card.

The US employer would have to get a [PERM Labor Certification](#) through the US Department of Labor.

EB-1 A

The EB-1 A visa is for people with "extraordinary ability."

The benefit of this visa is that it is eligible for self-petition. This means that you can apply for your green card on your own, without a job offer and without a

company sponsoring you.

EB-2 National Interest Waiver

The EB-2 visa is for people with “exceptional ability” or “advanced degree professionals.”

The unique aspect of an EB-2 visa is that, along with an EB-2 visa, you can potentially apply for a “National Interest Waiver.”

With a National Interest Waiver, you can apply for your green card on your own through self-petition **without** a US company sponsor and **without** a job offer.

To qualify for a National Interest Waiver, you must show that it is in the national interest of the United States, to allow you to forgo the requirements for a job offer and for an employer to undergo the labor certification process for you. Among other things, you must also show that your intended endeavor in the United States has substantial merit and national importance.

11. Frequently Asked Questions

How Hard is it to Get an E2 Visa?

The difficulty of obtaining an E2 visa depends on factors like the strength of your investment, the viability of your business, and your ability to prove that your funds are lawfully obtained and at-risk. Comprehensive documentation and consulate-specific requirements can also impact approval, with approval rates typically ranging from 80–90% for strong cases.

12. Conclusion

Now that you’ve read this guide, you should have a good understanding of the most important aspects of the E2 visa.

We have covered: What the E2 visa is, the requirements to get an E2 visa, the benefits of an E2 visa, and much more. I know that this is a lot of information to go over. If you are confused about anything, don’t worry, I’m here for you.

If you have questions, I welcome you to email me directly at Info@immigrationlawfirmlltd.com. I'm very responsive via email and would be happy to help you.