

## NON-IMMIGRANT BUSINESS VISA CHART

### McCandlish Holton, PC

| VISA CATEGORY  | DESCRIPTION  | DURATION OF STAY  | CRITERIA/SPECIAL RULES   |
|--|--|---|--|
| <b>Visa Waiver Program (VWP).</b> Visitors; no visa required. Complete Form I-94W on airplane prior to entry.  | For short stays as business visitor or tourist. Only for nationals of these countries: Andorra, Australia, Austria, Belgium, Brunei, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, the Republic of Korea, Latvia, Liechtenstein, Lithuania Luxembourg, Malta, Monaco, the Netherlands, New Zealand, Norway, Portugal, San Marino, Singapore, Slovakia, Slovenia, Spain, Sweden, Switzerland, United Kingdom. | <b>90 Days.</b> No extension or change to another temporary visa. Can adjust to green card only if marry a U.S. citizen   | Roundtrip air ticket to country other than Canada or Mexico. Business visitor cannot be paid from U.S. source.<br><br>Criteria: See B-1 below.   |
| <b>B-1 Business Visitor.</b> Apply at U.S. Consulate. Exception: Mexicans with border crossing cards and Canadians. Apply at port-of-entry.  | Temporary business or professional activities furthering international trade/commerce.   | <b>6 month</b> initial stay with up to <b>6 month</b> extension as needed to complete purpose of visit. Must have foreign residence which one has no intent to abandon. Liberal rules for Canadian/Mexican business visitors under USMCA/NAFTA. | Except in construction industry, can enter to install/service equipment or software under international sales contract. Can consult, negotiate, take orders, participate in training or business meetings. Must not engage in local productive employment or be paid from U.S. source.   |
| <b>E-1 Treaty Trader.</b> Can apply at U.S. Consulate or CIS. Available to citizens of many countries under bilateral trade treaties or NAFTA for Canada and Mexico. Major exceptions: India, Brazil, China, Indonesia, Hong Kong, Russia, South Africa. | Alien coming to U.S. to carry on "substantial trade" between U.S. and alien's country or to be employed in key position in foreign-owned business carrying on "substantial trade." Trade includes goods, services and technology.  | No limit on stay. E-1 visa issued for <b>5</b> years with unlimited renewals. Admitted to U.S. for <b>2</b> years each time travel to U.S. on E-1 visa. While in U.S. can obtain unlimited number of <b>2</b> yr. extensions.                   | Must be business owner, manager, executive or key employee with essential skills. At least 50% of U.S. company must be owned by nationals of same treaty country as alien. No minimum volume of trade as long as can document regular flow of goods or services. Need not maintain foreign residence or overseas affiliate of U.S. company.<br><br>Spouse can apply for work authorization in U.S.   |
| <b>E-2 Treaty Investor.</b> Can apply at U.S. Consulate or CIS. Available to citizens of many countries. Major exceptions: India, Russia, Brazil, China, Hong Kong, Indonesia, Greece.   | Alien coming to U.S. to make a substantial investment or be employed in key position in foreign-owned business, making substantial investment.   | No limit on stay. E-2 visa issued for <b>1-5</b> years with unlimited renewals. Admitted to U.S. for <b>2</b> years each time travel to U.S. on E-1 visa. While in U.S. can obtain unlimited number of <b>2</b> yr. extensions.                 | Must be business owner or hired as executive manager or employee with essential skills. U.S. company must be at least 50% owned by nationals of same treaty country as individual E-2 applicant (alien). Investment can be in local business. Enterprise need not maintain foreign office. No minimum investment or minimum number of employees but investment cannot be made solely to support alien & immediate family. Substantial documentation of business plan and investment required.<br><br>Spouse can apply for work authorization in U.S. |
| <b>E-3 For Australians.</b> Can apply directly at U.S. Consulate or CIS.   | Australians possessing university degree or the equivalent working in positions which requires a degree. Similar to H-1B.  | No limit on stay. E-3 visa issued for <b>2</b> years with unlimited renewals. While in U.S., can obtain unlimited number of <b>2</b> year extensions.   | E-3 is subject to a quota of 10,500. Very few E-3 visas are used, so the quota is not a concern.<br><br>Spouse can apply for work authorization in the U.S.  |

**NOTICE:** This chart is a summary only and does not contain all of the technical information related to these visas. For further information, please contact the following McCandlish Holton Immigration Practice Group Attorney:

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|--|---|--|---|
| <b>F-1 Student Employees.</b> Apply to Foreign Student Advisor (DSO).                                | 4 programs: on-campus; work/study coop education; economic hardship; Optional Practical Training, pre- and post-graduation.   | During <b>full time study</b> plus up to <b>12</b> months of post-graduation Optional Practical Training (OPT), up to <b>36</b> total months if STEM graduate.                                   | No work until completed one year of study. Can work full-time during vacation and summer in OPT, but may reduce 12 months post-graduation OPT.  |
| <b>H-1B Specialty Occupation Workers.</b> Petition CIS in U.S.                                       | Employee has at least a bachelor's degree or equivalent; working in a job requiring a degree. May work part time or multiple concurrent employers.  | <b>3</b> years with <b>3</b> year extension for total of <b>6</b> years. Under special circumstances can extend beyond 6 yrs.  | Employee must have 4 year college degree or equivalent. Must pay prevailing wage. Must post job notice and file Labor Condition Application. Cap on number of new H-1Bs per yr. University jobs (and jobs with certain non-profits/research orgs) exempt from cap. Special quota for Singapore/Chile  |
| <b>H-2A, H-2B and H-3 Temporary workers and trainees.</b> Petition CIS in U.S.                       | Short-term skilled/unskilled workers for temporary positions or training. May be part-time position.  | H-2A/2B: up to <b>1</b> year, generally renewable for up to <b>3</b> years.<br>H-3 Trainee: <b>18-24</b> months.   | H-2A/B: Temporary "special needs" positions in agriculture or business. Labor Certification required. Must pay prevailing wage.<br>H-3: Detailed written training curriculum. Limited productive employment allowed only if incidental to training.   |
| <b>J-1 Exchange Visitor/Trainee or Student.</b> Apply with Department of State (DOS) or J-1 sponsor. | Business trainees, medical graduates, students, researchers, teachers in program approved by DOS  | Business/Industrial trainees: <b>18</b> months.<br>Students: For duration of studies, up to <b>6</b> years.<br>Scholars: <b>3</b> years with up to <b>6</b> months extension for good cause.     | (Business Trainees). Can engage in productive employment under bona fide training program; college degree not required for J-1; can adjust to permanent residence/change status to other nonimmigrant category; may have to return abroad for 2 years after training, but can obtain waiver of 2 year foreign residency requirement.<br>(Student). 18 months of academic training after graduation, if related to studies. 36 months if Ph.D.<br>J-2 spouse/children can be employed. |
| <b>L-1A Executive/Manager.</b> Intra-Company Transferee. Petition filed with CIS in U.S.             | Alien transferring from abroad to work as executive or manager. Can manage essential function without directly supervising others. Need not be college graduate or professional. May work part time in U.S. | New office L-1A: <b>1</b> year, three <b>2</b> year extensions to maximum of <b>7</b> years.<br>Existing office L-1A: <b>3</b> years, two <b>2</b> year extensions to maximum of <b>7</b> years. | 1 year of employment with affiliate, branch, subsidiary or parent corporation of U.S. employer within 3 years prior to entry. Salary can be from abroad or U.S. source. Blanket petition rules reduce employment abroad to 6 months.<br>Spouse can apply for work authorization in U.S.   |
| <b>L-1B Specialized Knowledge Intra-Company Transferees.</b>   | Alien transferring from company abroad with specialized knowledge of company, products or processes. Need not be college graduate or professional.  | New office L-1B: <b>1</b> year. Two <b>2</b> year extensions up to maximum <b>5</b> years.<br>Existing office L-1B: <b>3</b> years, one <b>2</b> year extension up to maximum <b>5</b> years.    | Same as L-1A.<br>Spouse can apply for work authorization in U.S.  |
| <b>TN (Treaty USMCA/NAFTA Visa).</b> Canadians and Mexicans only.                                    | Management consultants, scientific and medical technologists, computer systems analysts and other professionals.  | <b>3</b> years with unlimited renewals/extensions.   | Self-employment generally not permitted. Obtain TN at border from CBP (Canada) or TN visa from Embassy/Consulate (Mexico). 3 year Canadian degree = U.S. bachelors degree.  |
| <b>O Visa – Extraordinary Ability.</b> Apply to CIS in U.S.  | Extraordinary ability in arts, athletics, science, business. Available to athletes, researchers, university faculty, renowned artists, outstanding business people.   | <b>3</b> years or duration of event; can extend for additional events.   | Must show recognition and renown through at least 3 of following: Prizes/awards; membership in prestigious societies; review of work of others; original contributions of significance to field; significant publications; high salary; published material about alien; employment in critical capacity for distinguished organizations.  |