

## E-1 Treaty Trader Visa

### Summary

- A treaty-based investment visa that is only available to citizens of countries with the correct type treaty with the US.
- Must own a business in the 'home' country that currently engages in substantial trade or business with the US.
- Very fast processing (a few weeks or months).
- The visa (ability to enter the US) is typically 1-5 years, shorter in the case of a few countries.
- Renewable for an unlimited number of times (fewer renewals for a few countries)
- Dependent visas for Spouse (can get EAD) and children under 21 years old.

The E-1 visa is an investor treaty-based visa. It is a non-immigrant visa that allows the applicant to live in the US to manage or direct the US-based business affairs for the applicant's current company. The applicant's spouse can receive an EAD and the children (if foreign born) can attend school (domestically born children are US citizens and do not require visas).

No investment is required in the US nor is it necessary to set up a US company to act as a subsidiary of the foreign sponsor business. It is generally required as a matter of state law for the foreign business to register in the state in which it locates its offices or operations.

The visa itself is typically granted for one to five years (with some exceptions) and are typically renewable for an unlimited number of times so long as the underlying business meets the qualifications. For a full listing of visa terms and number of renewals for each country with whom the US has a treaty, click here: <http://e3ig.com/wp-content/uploads/2020/08/E-1-and-E2-summary-chart-3-1.pdf>

Note, to qualify for a E2 visa, an investor does not have to be currently residing in a treaty country. However, the investor does have to be citizen from a treaty country. It is not enough to just maintain a legal permanent residency in a treaty country.

One of the key criteria for an E-1 business is that the investor is actively involved in developing or directing the US business activities. The degree to which an investor must actively manage the business is an often-misunderstood topic. Legally, there are ways to satisfy the 'active involvement' requirement without being the day-to-day manager. To do this, the E-1 business and management arrangements must be carefully constructed. It is also possible for an E-1 to sponsor one or more key employees for E-1 visas. The employees must come from the same country, be a supervisory employee, and essential to running the company.

The E-1 visa cannot be converted into a green card.

A key to the application is to prepare a very thoroughly documented business plan that clearly shows the substantial nature of the trade or business being conducted with the US, the labor creation and the other elements required. It is important to note that different consulates often have different rules of how they interpret the regulations, which will therefore change what is included in the application to some degree. Visas will not be approved based on purely prospective business plans and forecasts, the sponsoring business must already be engaged in active trade with the US.

The trade or business in the US can be any legal business or trade. It is best to avoid potentially issue laden industries such as cannabis, even if legal in a state, as they may run afoul of federal laws.

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