

## VISA CATEGORIES: NON-IMMIGRANT AND IMMIGRANT

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### Key Definitions

*Alien:* A foreign national who is not a U.S. citizen.

*Certificate of Citizenship:* A document issued by Department of Homeland Security (DHS) as proof that the person is a U.S. citizen by birth (when born abroad) or derivation (not from naturalization). The Child Citizenship Act of 2001 gives U.S. citizenship automatically to certain foreign-born children of U.S. citizens. These children can apply for certificates of citizenship.

*Certificate of Naturalization:* A document issued by DHS as proof that the person has become a U.S. citizen (naturalized) after immigration to the U.S.

*Conditional Residence (CR) Visa:* If you have been married for less than two years when your husband or wife (spouse) gets lawful permanent resident status (gets a green card), then your spouse gets residence on a conditional basis. After two years, you and your spouse must apply together to DHS to remove the condition to the residence.

*Diversity Visa Program:* The Department of State has an annual lottery for immigration to the U.S. Up to 55,000 immigrants can enter the U.S. each year from countries with low rates of immigration to the U.S.

*Family First Preference:* A category of family immigration (F1) for unmarried sons and daughters of U.S. citizens, and their children.

*Family Second Preference:* A category of family immigration (F2) for spouses, children and unmarried sons and daughters of lawful permanent residents.

*Family Third Preference:* A category of family immigration (F3) for married sons and daughters of U.S. citizens and their spouses and children.

*Family Fourth Preference:* A category of family immigration (F4) for brothers and sisters of U.S. citizens and their spouses and children. The American citizen must be 21 years of age or older before he/she can file the petition.

*Federal Poverty Guidelines:* The Department of Health and Human Services publishes a list every year giving the lowest income acceptable for a family of a particular size so that the family does not live in poverty. Consular officers use these figures in immigrant visa cases to determine whether a sponsor's income is sufficient to support a new immigrant, in accordance with U.S. immigration laws.

*Fiancé(e):* A person who plans or is contracted to marry another person. The foreign fiancé(e) of a U.S. citizen may enter the U.S. on a K-1 visa to marry the U.S. citizen.

*Green card:* Permanent Resident Card, Form I-551 (formerly called Alien Registration Card, also known as *green card*), is a wallet-sized card showing that the person is a lawful permanent resident (immigrant) in the U.S.

*Immigrant Visa:* A visa for a person who plans to live indefinitely and permanently in the U.S.

*Lawful Permanent Resident (LPR) or Lawful Permanent Resident Alien (LPRA):* A person who has immigrated legally, admitted to the U.S. by DHS as a permanent resident of the U.S., and has a Permanent Resident Card, Form I-551 (formerly called Alien Registration Card, also known as *green card*). Permanent resident status is not the same as being a U.S. citizen. However, you have authority to live and work in the U.S. permanently, as well as other rights and responsibilities. This person may also be called a LPR, a green card holder, a permanent resident alien, a LPRA, or a resident alien permit holder.

*Naturalization:* A citizen who acquires nationality of a country after birth. That is, the person did not become a citizen by birth, but by a legal procedure.

*Nonimmigrant Visa (NIV):* A U.S. visa allows the bearer, a foreign citizen, to apply to enter the U.S. temporarily for a specific purpose. Nonimmigrant visas are primarily classified according to the principal purpose of travel. With few exceptions, while in the U.S., nonimmigrants are restricted to the activity or reason for which their visa was issued. Examples of persons who may receive nonimmigrant visas are tourists, students, diplomats, and temporary workers.

*Preference Immigration:* A system for determining which and when people can immigrate to the U.S. within the limits of immigration set by Congress.

*Refugee:* A person who has a well-founded fear of persecution if they should return to their home country. They apply to come to the U.S. in another country and enters the U.S. as a refugee.

*Special Agricultural Worker:* Farm workers in perishable products who worked for a specified period and were able to adjust status to lawful permanent resident per current immigration law.

*Special Immigrant:* A special category of immigrant visas (E-4) for persons who lost their citizenship by marriage; persons who lost citizenship by serving in foreign armed forces; certain foreign medical school graduates; Panama Canal immigrants; and certain others.

*Temporary Worker:* A foreign worker who will work in the U.S. for a limited period. Some visas classes are for temporary workers: H, L, O, P, Q and R. For H, L, O, P, and Q visas, your prospective employer must file a petition with DHS, USCIS. This petition must be approved by USCIS before you can apply for a visa.

The investor visa (EB5 or T5/C5) is also a conditional residence visa. It requires an application procedure after two years to remove the condition on the permanent residence.

*Visa Waiver Program (VWP):* Citizens of participating countries meeting the VWP requirements may be allowed to enter the U.S. as visitors for pleasure or business without first getting a visa. Visitors can stay only 90 days and cannot extend their stay.

*Visa:* A citizen of a foreign country, wishing to enter the U.S., generally must first obtain a visa, either a nonimmigrant visa (temporary stay), or an immigrant visa (permanent residence). Visa applicants will need to apply overseas, at the U.S. Embassy or Consulate, generally in their country of permanent residence. The type of visa you must have is defined by immigration law, and relates to the purpose of your travel. Issuance of a visa does not guarantee entry to the U.S. The Customs and Border Protection Officer at the port-of-entry determines whether you can be admitted and decides how long you can stay for a particular visit.

*Waiver of Ineligibility:* In immigration law certain foreign nationals are ineligible for visas to enter the U.S. for medical, criminal, security or other conditions and activities. Some applicants for visas can apply for permission to enter the U.S. despite the ineligibility. The applicant must apply for permission to enter the U.S. (waiver).

## Non-Immigrant (Temporary) Visas

Visa Category	Purpose of Travel	Annual Cap (000s)
A	Diplomat or foreign government official.	None
A-2	Foreign military personnel stationed in the U.S.	None
B-1	Visitor Visa, for business reasons (e.g., attend a scientific, educational, professional, or business conference; settle an estate; negotiate a contract; compete in a professional athletic event).	None
B-2	Visitor Visa, for tourism reasons (e.g., vacation, visit with friends or relatives, medical treatment, participation in social events, participation by amateurs in musical, sports, or similar events, etc.).	None
BCC	Border Crossing Card: Mexico.	None
C	Transiting the U.S. (i.e., enroute to another country).	None
D	Crewmember (e.g., pilot or flight attendant on a commercial airplane; captain, engineer, or deckhand on a sea vessel; lifeguard, cook, etc. on a cruise ship; trainee on board a training vessel).	None
E-1/E-2	Treaty Trader (E-1) and Treaty Investor (E-2) visas are for citizens of countries with which the U.S. maintains treaties of commerce and navigation.	None
E-3	Australian in Specialty Occupation (E-3) visas are for citizens of countries with which the U.S. maintains treaties of commerce and navigation.	10.5
F, M	Student: academic, vocational. Course of study and the type of school that the student plans to attend determine whether an F visa or an M visa is needed.	None
G1-G5, NATO	Employee of a designated international organization or NATO.	None
H-1B	Person in specialty occupation: Requires a higher education degree or its equivalent. Includes fashion models of distinguished merit and ability and government-to-government research and development, or co-production projects administered by the Department of Defense.	65.0 plus 20.0 w/U.S. adv. degrees
H-1B1 - Chile/Singapore	Free Trade Agreement (FTA) Professional: Chile/Singapore. To work in a specialty occupation. Requires a post-secondary degree involving at least four years of study in the field of specialization.	1.4 (Chile) 5.4 (Sing.)
H-2A	Temporary or seasonal agricultural work. Limited to citizens or nationals of designated countries, with limited exceptions, if determined to be in U.S. interest.	None
H-2B	Temporary or seasonal non-agricultural work. Limited to citizens or nationals of designated countries, with limited exceptions, if determined to be in U.S. interest.	66.0
H-3	To receive training, other than graduate medical or academic, that is not available in the trainee's home country or practical training programs in the education of children with mental, physical, or emotional disabilities.	Trainee: none; Spec. Ed.: 50
I	Foreign media, including members of the press, radio, film, and print industries, traveling temporarily to the U.S. to work in their profession engaged in informational or educational media activities, essential to the foreign media function.	None

<b>Visa Category</b>	<b>Purpose of Travel</b>	<b>Annual Cap (000s)</b>
J	Exchange Visitor (e.g., Au Pair, Professor, Scholar, Teacher, Camp Counselor, etc.).	None
L	Intra-company transferee. To work at a branch, parent, affiliate, or subsidiary of the current employer in a managerial or executive capacity, or in a position requiring specialized knowledge. Individual must have been employed by the same employer abroad continuously for 1 year within the three preceding years.	None
O	For persons with extraordinary ability or achievement in the sciences, arts, education, business, athletics, or extraordinary recognized achievements in the motion picture and television fields, demonstrated by sustained national or international acclaim, to work in their field of expertise.	None
P-1	To perform at a specific athletic competition as an athlete or as a member of an entertainment group. Requires an internationally recognized level of sustained performance. Includes persons providing essential services in support of the above individual.	None
P-2	For performance under a reciprocal exchange program between an organization in the U.S. and an organization in another country. Includes persons providing essential services in support of the above individual.	None
P-3	To perform, teach or coach under a program that is culturally unique or a traditional ethnic, folk, cultural, musical, theatrical, or artistic performance or presentation. Includes persons providing essential services in support of the above individual.	None
Q-1	For practical training and employment and for sharing of the history, culture, and traditions of your home country through participation in an international cultural exchange program.	None
R	For persons who want to enter the U.S. to work temporarily in religious capacities.	None
T	Victim of human trafficking: allows victims of human trafficking to remain in the U.S. to assist in investigations or prosecutions of human trafficking violators.	5.0
TN/TD	NAFTA professional worker: Mexico, Canada. Allows citizens of Canada and Mexico, as NAFTA professionals, to work in the U.S. in prearranged business activities for U.S. or foreign employers.	None
U	Victims of certain criminal activities that either occurred in the U.S. or violated U.S. laws may be eligible to petition for U nonimmigrant status.	10.0
V	Nonimmigrant Visa for Spouse and Children of a Lawful Permanent Resident.	None

## Immigrant (Permanent) Visas <sup>1,2</sup>

Visa Category	Purpose of Request (Petition)	Annual Cap (000s)
<b>Immediate Relative and Family Sponsored<sup>3</sup></b>		
IR1, CR1	Spouse of a U.S. Citizen	See note 3.
K-3	Spouse of a U.S. Citizen awaiting approval of an I-130 immigrant petition	See note 3.
IR2, CR2, IR5, F1, F3, F4	Certain Family Members of U.S. Citizens	See note 3.
F2A, F2B	Certain Family Members of Lawful Permanent Residents	See note 3.
IR3, IH3, IR4, IH4	Intercountry Adoption of Orphan Children by U.S. Citizens	None
K-1	Fiancé(e) to marry U.S. Citizen & live in U.S.	None
<b>Employer Sponsored – Employment</b>		
<i>Employment-Based Immigrants, including preference group<sup>4</sup></i>		
E-1	Priority Workers (1 <sup>st</sup> )	40.04
E-2	Professionals Holding Advanced Degrees and Persons of Exceptional Ability (2 <sup>nd</sup> )	40.04
E-3, EW-3	Professionals and Other Workers (3 <sup>rd</sup> )	40.04
S (many)	Certain Special Immigrants (4 <sup>th</sup> )	9.94
C5, T5, R5, I5	Employment Creation/Investors (5 <sup>th</sup> )	9.94
SD, SR	Religious Workers	See 4 <sup>th</sup> group
SI	Iraqi and Afghan Translators/Interpreters	Variable
SQ	Iraqis and Afghans Who Worked for/on Behalf of the U.S. Government	Variable
<b>Other Immigrants</b>		
DV	Diversity Immigrant Visa	55.0
SB	Returning Resident	None

<sup>1</sup> The INA limits worldwide permanent immigration to 675,000 persons annually: 480,000 familysponsored immigrants, made up of immediate relatives of U.S. citizens, and a set of ordered family-sponsored preference immigrants (preference immigrants); 140,000 employment-based immigrants; and 55,000 diversity visa immigrants. <sup>7</sup> This worldwide limit, however, is referred to as a permeable cap because immediate relatives are exempt from numerical limits placed on family-sponsored immigration and thereby represent the flexible component of the 675,000 worldwide limit. In addition, the annual number of refugees is

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determined not by statute but by the President, in consultation with Congress. Asylees are adjudicated on a case-by-case basis without a statutorily mandated limit. Consequently, actual total annual LPRs (immigrants, refugees, and asylees) have exceeded 1 million persons in all but 4 of the past 20 years.

<sup>2</sup> To ensure that foreign nationals from only a few countries do not dominate permanent immigration flows, the INA further specifies a 7% per-country limit on the number of family-sponsored preference immigrants and employment-based immigrants from a single country.

<sup>3</sup> There is no limit or quota for U.S. citizens sponsoring spouses, unmarried minor children, and parents. For all other categories, there is a 226,000 total limit, broken down as follows: unmarried adult children, sponsored by U.S. citizen - 23,400; spouses and minor children, sponsored by legal permanent residents - 87,900; unmarried adult children, sponsored by legal permanent residents - 26,300; married adult children, sponsored by U.S. citizen - 23,400; and brothers and sisters, sponsored by U.S. citizen - 65,000. The quotas within a category may be adjusted if all the visas are not used in another category; however, the total number of visas does not change.

<sup>4</sup> Employment-based immigrants (including accompanying spouses and children) are limited to 140,000 total annual admissions and are subject to the same 7% per-country limit for each preference category as family-sponsored preference immigrants.