



A Florida Law Firm

Business Immigration to the United States

BOYER LAW FIRM, PLLC

Attorneys & Counselors at Law

9471 Baymeadows Road, Suite 404
Jacksonville, Florida 32256
United States of America

Tel: +1 (904) 236-5317

Fax: +1 (904) 371-3935

Email: Office@BoyerLawFirm.com
www.BoyerLawFirm.com

Immigration • Business Law • Estate Planning • Real Estate • Maritime Law • Debt Collection • Foreign Investment

FOREWORD

This memorandum has been prepared for the assistance of the businesses who are considering bringing foreign workers to the United States. It is not intended to be exhaustive nor a substitute for proper legal advice but provides a basic guide to the immigration law and its alternative as it relates to businesses for clients of the Boyer Law Firm.

Often times, alternatives to bringing in foreign workers such as outsourcing, or near-shoring is financially worthwhile for the client to explore.

This memorandum has been prepared on the basis of the law and practice as at the date referred to below.

Boyer Law Firm, PLLC
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Business Immigration

1. Introduction

Foreign employers who wish to send personnel to the United States either for business meetings or to work for extended periods of time must obtain visas for their employees.

There are two main visa categories:

1. **Non-immigrant visas** -these permitting foreign nationals to enter the U.S. temporarily.
2. **Immigrant visas** -these permitting foreign nationals to live in the U.S. permanently.

The vast majority of foreign nationals sent by foreign employers to the U.S. for business or employment enter on non-immigrant visas. Depending on the visa, these may permit the individual to remain in the U.S. for anywhere from three months to many years.

This chapter provides an overview of the types of non-immigrant visas available to foreign nationals for purposes of business and employment in the U.S. It also discusses an employer's legal obligations in employing foreign nationals in the U.S.

The immigration laws in the United States have been administered by various U.S. government departments and agencies, including the USCIS. In some cases, these U.S. government agencies are assisted by state government departments such as the state departments of labor. Depending on the type of visa desired, application must be made to one or more of these entities. Visas are obtained from the U.S. embassy or consulate in the foreign country. However, depending on the type of visa requested, approvals must be obtained from other U.S. government departments and the USCIS before application may be made to the U.S. embassy or consulate abroad for the visa.

2. Types of Non-immigrant Visas

2.1. The **B-1 Visa** (Temporary Business Visitor)

The B-1 visa is available to individuals entering the U.S. as temporary visitors for business, provided they continue to be employed by a non-U.S. company outside the U.S., receive no remuneration in the U.S., and are not working in the U.S. Individuals

entering the U.S. under B-1 visas may attend business meetings and seminars, negotiate contracts, solicit orders for goods manufactured outside the U.S., and seek investment opportunities.

Although B-1 visas may be issued for periods ranging from one month to several years, individuals entering the U.S. under B-1 visas will be admitted into the U.S. for no more than six months at a time. Once in the U.S., it is possible to obtain extensions of stay for an additional six-month period.

2.2. The B-2 Visa (Visitor for Pleasure)

The B-2 visa is available to individuals who seek to enter the U.S. for pleasure. Like the B-1 visa, a B-2 visa may be issued for a period ranging from one month to several years, and the maximum period of stay an individual may be initially granted can be no more than one year. However, entries are typically allowed for periods of no more than six months.

2.3. The Visa Waiver Program

The Visa Waiver Program (VWP) allows individuals from certain countries who would otherwise be qualified for business (B-1) or pleasure (B-2) visitor visas to enter the U.S. for a period of up to 90 days without obtaining visas. VWP participants are not permitted to extend their period of stay or change their status in the U.S.

2.4. The E Visa (Treaty Trader and Investor)

E visas, otherwise known as treaty **trader (E-1)** or treaty **investor (E-2) visas** are available to certain executives, managers and individuals with essential skills who seek to enter the U.S. pursuant to the provisions of a treaty of commerce and navigation between the U.S. and the foreign state of which they are a national.

To obtain an E-1 visa, an individual must be entering the U.S. as a manager, executive of a company that carries on substantial trade, principally between the U.S. and the foreign state.

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