



# E-2 Visa in the United States

Summary sheet: treaty investor, consular process, family, employees, and compliance

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## Legal nature of the E-2 visa

The E-2 is a nonimmigrant category for treaty investors who are nationals of a country that maintains a treaty of commerce and navigation with the United States (INA 101(a)(15)(E)(ii)). It allows entry and stay to develop and direct a business in which a substantial investment has been placed. It is not a green card: status depends on maintaining the investment and active control of the enterprise.

## Treaty and nationality

Only nationals of treaty countries may qualify for E-2 (list published by the Department of State). France is eligible. The U.S. enterprise must be at least 50% owned by nationals of the same treaty country (nationality rule). Citizenship of the applicant matters more than residence alone; dual citizenship may be used if the chosen country is treaty-covered.

## Substantial investment

The investment must be substantial in relation to the total cost of the enterprise, sufficient to ensure the investor's commitment, and irrevocably committed (at risk). There is no fixed dollar minimum: a modest amount may suffice for a low-cost small business, while a franchise or plant will require far more capital. Funds must come from a lawful source and be fully traceable.

## Non-marginal enterprise

The enterprise must not be marginal, meaning it should not generate only enough income to provide a minimal living for the investor and family. It must have the present or future capacity to generate more than a subsistence income, for example through growth, jobs, or services. A credible business plan and financial projections are often decisive at the consulate.

## Develop and direct the enterprise

The E-2 principal must develop and direct the business and cannot be a passive investor only. In practice this means operational or strategic control (management, supervision, key decisions). For highly skilled activities, the consulate checks that the applicant can run the project. Essential E-2 employees fall under a separate framework (see employees section).

## Consular procedure

The standard path for a foreign national outside the United States runs through the appropriate U.S. embassy or consulate. Typical file: DS-160, E visa supplement, proof of nationality, proof of investment (wire transfers, deeds, contracts), corporate documents, business plan, ownership chart, source-of-funds evidence, resume and background of the applicant. Mandatory consular interview. Timing varies by post.

## Form I-129 (change or extension inside the USA)

If you are already in the United States in another qualifying status, the enterprise may file Form I-129 with USCIS to request a change of status to E-2 or an extension. I-129 is also used to extend E-2 stay without departing (when eligible). Attach the same proof of investment, nationality, and active direction. USCIS may issue a Request for Evidence (RFE).

## Family: E-2D visa

A spouse and unmarried children under 21 may obtain E-2D derivative status. An E-2D spouse may apply for work authorization (EAD, Form I-765) without employer restriction once admitted. Children may study but may not work in E-2D status. Each family member files a separate DS-160 in consular processing.

## Treaty-national employees

An essential employee (executive, supervisory, or special qualifications) of the same treaty nationality as the enterprise may qualify for E-2 if the enterprise is eligible, the employee is indispensable, and qualifications fit the role. Ordinary workers without specialized skills do not qualify as E-2 employees.

## Duration, renewals, and reciprocity

Initial visa validity and admission periods depend on reciprocity agreements between the United States and the applicant's country (often up to 5 years for France at the visa foil level, with variable admission periods at entry). E-2 status is renewable without a theoretical cap as long as investment and operations remain qualifying. Each renewal requires showing continued viability.

## CBP and admission at the border

The Department of State issues the visa; effective admission is decided by CBP at the airport or port of entry. The officer reviews visa validity and issues an I-94 with the authorized stay end date. Always verify your I-94 online on the CBP portal after each entry. Admission may still be refused despite a valid visa.

## Compliance and maintaining status

Keep the investment at risk, actively direct the business, meet tax obligations (IRS, state), immigration paperwork (I-9 for employees), and do not work outside the E-2 role. Document decisions, accounts, and money flows. Plan renewals months before expiration. If the investment is fully withdrawn or the enterprise is sold without a qualifying structure, E-2 status is no longer supported.

## E-1 (treaty trader) vs E-2 (treaty investor) comparison

Criterion	E-1 (Treaty Trader)	E-2 (Treaty Investor)
<b>Purpose</b>	Substantial international trade	Substantial investment in a business
<b>Legal basis</b>	INA 101(a)(15)(E)(i)	INA 101(a)(15)(E)(ii)
<b>Nationality required</b>	Treaty-country national	Treaty-country national
<b>Enterprise</b>	Engaged in treaty trade	Real, operating, non-marginal enterprise
<b>Ownership</b>	Majority treaty nationals	At least 50% treaty nationals
<b>Core activity</b>	Substantial trade principally US-treaty	Capital invested and at risk in the enterprise
<b>Volume required</b>	Substantial trade (mainly US-treaty)	Substantial investment (proportional to cost)
<b>Applicant role</b>	Direct or supervise trade	Develop and direct the enterprise
<b>Eligible employees</b>	Executives / essential skills, same nationality	Executives / essential skills, same nationality
<b>Family</b>	E-1D (spouse, children under 21)	E-2D (spouse, children under 21)
<b>Spouse work</b>	EAD available (I-765)	EAD available (I-765)
<b>Outside the USA</b>	Consulate (DS-160 + E supplement)	Consulate (DS-160 + E supplement)
<b>Inside the USA</b>	I-129 (change / extension)	I-129 (change / extension)
<b>Duration</b>	Per reciprocity, renewable	Per reciprocity, renewable
<b>Admission</b>	CBP + I-94	CBP + I-94
<b>Dual intent</b>	Nonimmigrant (no dual intent)	Nonimmigrant (no dual intent)

## Official U.S. links: forms and steps

E visas (Department of State) :

<https://travel.state.gov/content/travel/en/us-visas/employment/treaty-trader-investor-visa-e.html>

Treaty country list : <https://travel.state.gov/content/travel/en/us-visas/visa-information-resources/fees/treaty.html>

9 FAM 402.9 (E visas) : <https://fam.state.gov/>

USCIS, E-2 classification : <https://www.uscis.gov/working-in-the-united-states/temporary-workers/e-2-treaty-investors>

Form I-129 : <https://www.uscis.gov/i-129>

Form I-765 (spouse EAD) : <https://www.uscis.gov/i-765>

DS-160 : <https://ceac.state.gov/genniv/>

CBP, verify your I-94 : <https://i94.cbp.dhs.gov/>

USCIS Policy Manual, volume 2 : <https://www.uscis.gov/policy-manual/volume-2>

INA 101(a)(15)(E) :

<https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title8-section1101#0&edition;=prelim>