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Want To Start A Small Business in the United States? An E-2 Visa May Be Perfect For You.

The idea of starting your own business may always have been something at the forefront of your mind. It certainly was for me but given that I was not a green card holder, I thought starting my own business was not an option for me. I was also not encouraged by the “Big” business EB-5 green card category where a \$1 Million dollar investment is required. When I became a lawyer and realized I wanted to start my own law firm, I quickly realized though that the E-2 Treaty Investor Visa was the perfect option for me. The key advantages of the E-2 Visa is the infinite duration, the fact that your family can come with you and also work in the U.S., & the relatively small investment amount that is required. In fact, your dream of becoming a business owner in the U.S. could become a reality by spending as little as \$15,000. The remainder of this post summarizes the main requirements for an E-2 Visa and some of the common issues.

1. You Must Be National of A Treaty Country

The E-2 Investor Trader Visa is only to people from the countries that the U.S. has a Treaty with. Many Western countries are on the list but there are also countries from Africa, Asia and the Middle East on the list. Israel was just recently added to the list. A complete list of the countries on the list can be found [here](#).

2. You Must Have Invested or Be Actively in the Process of Investing

In order to satisfy this part of the test, you must fulfill three requirements.

a. Show Legitimate Possession and Control of the Funds

You must invest funds that you have obtained from a lawful means. While dollar for dollar accounting is not required, you must prove to the Government that you either saved the money, were given the money as a gift or legitimately earned the money. There are various forms of proof that will satisfy this requirement including tax returns, bank statements, investment accounts & more. For some countries, this can be problematic if records are not readily available or the country is subject to a high degree of corruption. When I applied, I showed the government 10 years worth of tax returns, my current W-2, my 401K investment statements and my bank statements.

b. All Funds Invested are “At Risk” & Irrevocably Committed

All of the assets invested must be personal assets subject to risk of loss and this really means that you actually have something to lose. Loans are fine but you must be on the hook if there is a loss

and this requirement forces you to sign contracts and/or spend money prior to the approval of the Visa. When I applied, I signed a one-year office space lease and would have been required to pay approximately \$24,000 even if the Visa was not approved. At risk money does include credit card debt or other loans as long as those debts are not secured by business assets or in the name of a limited liability business. This provision is one of the “scarier” provisions related to an E-2 Visa.

c. You Must Be Close to The Start of Business

While you cannot accept money from clients or “do business” until the Visa is approved, you must be close to starting your business. The idea here is that the U.S. government does not want to approve Visas for people who “may” set up a business in the U.S. or who have a “desire” to start a business. As such, your business must be at the start up ready phase. This means you should have a signed lease, your business bank account should be set up, you should have a website, and you should have purchased what ever you need to get the business up and running.

3. You Must Be in a Position to “Develop and Direct” the Business & Have the Requisite Essential Skills

You cannot get the E-2 Visa unless you are the one that is going to direct and run the business. Also, you must have the appropriate skill set such that the Government has faith that the business will be viable. For example, you would likely not have much success getting an E-2 Visa if you wanted to open a restaurant if the only experience you had was eating in a restaurant. Normally, your educational background and experience should suggest that you will be in a position to make the business a success.

4. Your Investment Must Be Substantial

The U.S. Government does not have a predetermined amount that they consider substantial. As such, your investment could be as low as \$15,000 or as high as millions. I invested around \$50,000 but only spent \$13,000 for equipment, furniture and other items. I also deposited \$35,000 in my business account as operating working capital. You should note that idle cash sitting in a business account is NOT considered an investment but the government will consider a reasonable amount of working capital as part of an investment. This small investment was sufficient because I was setting up a service oriented business which does not cost much to set up. If the business was say a car manufacturer, the required investment amount would have been substantially more. You should ensure that you keep records of all of your expenditures as the government will want to see them.

5. Your Investment & Business Cannot Be Marginal

This means that the business cannot be set up so that it provides a means of living just for yourself and family. You can demonstrate a business is not marginal by putting together a business plan that shows growth over a 5-year period or by showing that you plan to hire employees in the future.

6. You Must Intend to Return to Your Home Country once the E-2 Visa Status Has Terminated

This is not a difficult test to meet and all you must do is sign a document that indicates you plan to return home once your visa expires. Unlike many other visas you do not have to show any ties to your home country like a home there.

All in all this is a great Visa for those who wish to start a small business in the U.S.. The Visa does have an extensive documentation requirement and you are strongly advised to seek the assistance of a lawyer. Scott Legal Services, P.C., has actually been through the process and successfully filed the Visa petition for this business so who better go guide you. Click here to find out more. You can also call us at 1-888-529-2964 or email us at iscott@legalservicesincorporated.com.