

Work Visa in The US
**Types,
Benefits &
Boundaries**



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Disclaimer

All materials have been prepared for general information purposes only to permit you to learn more about this topic.

The information presented is not legal advice, is not to be acted on as such, may not be current and is subject to change without notice.



Work Visas in The USA

Generally, a citizen of a foreign country who wishes to enter the United States must first obtain a visa, either a non-immigrant visa for temporary stay, or an immigrant visa for permanent residence. Temporary worker visas are for persons who want to enter the United States for employment lasting a fixed period of time, and are not considered permanent or indefinite. Each of these visas requires the prospective employer to first file a petition with U.S. Citizenship and Immigration Services (USCIS). An approved petition is required to apply for a work visa.



Temporary worker visa categories

AS, E, F, H-1B, H-1B1,
H-2A, H-2B, H-3, I, J, K, L,
O, P-1, P-2, P-3, Q-1, TN

H-1B, L, TN



3 Most common Visa Category & Description

H-1B: Person in Specialty Occupation

To work in a 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.



3 Most common Visa Category & Description

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.



3 Most common Visa Category & Description

TN: Non-immigrant NAFTA Professional

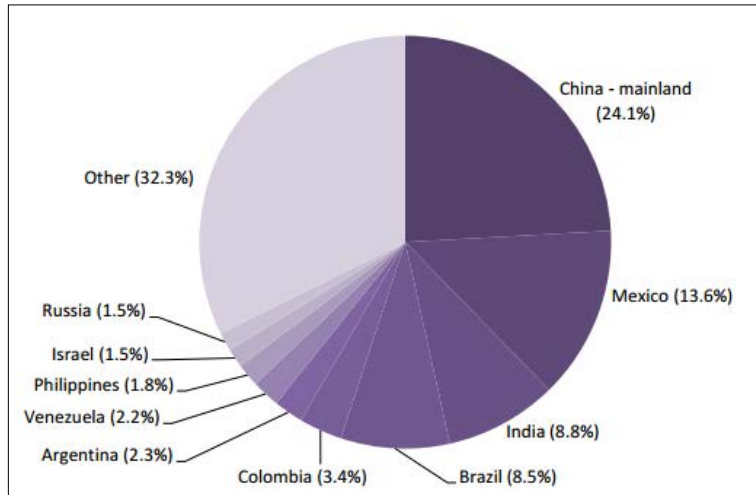
The North American Free Trade Agreement (NAFTA) created special economic and trade relationships for the United States, Canada, and Mexico. visa allows citizens of Canada and Mexico, as NAFTA professionals, to work in the United States in prearranged business activities for U.S. or foreign employers.



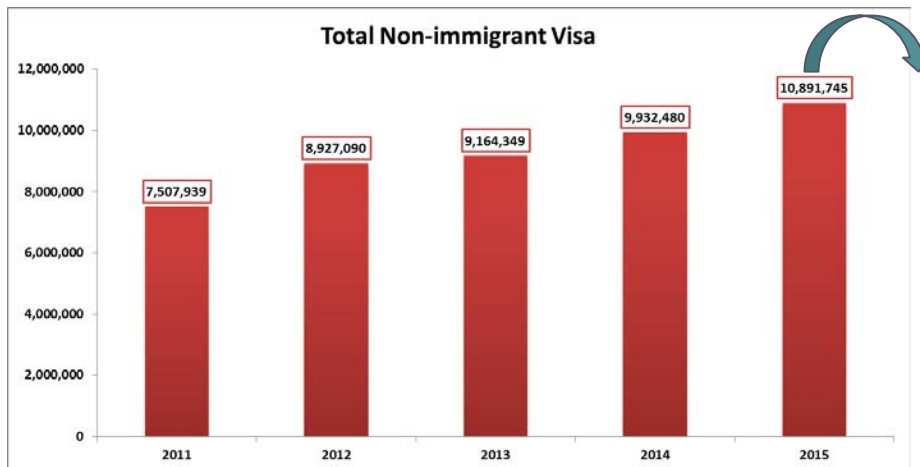
Steps



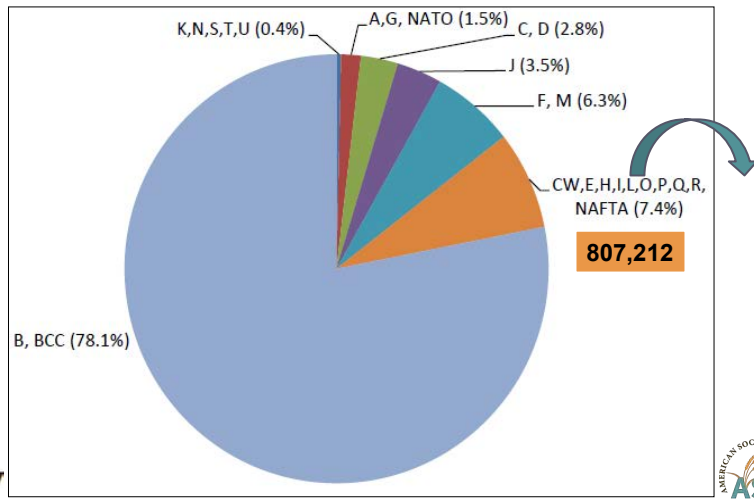
2015 Non-immigrant Visa



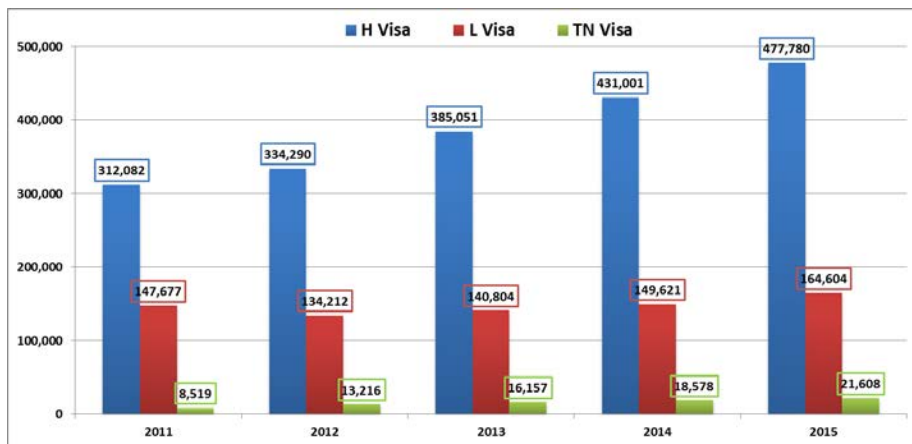
Total Non-immigrant Visa



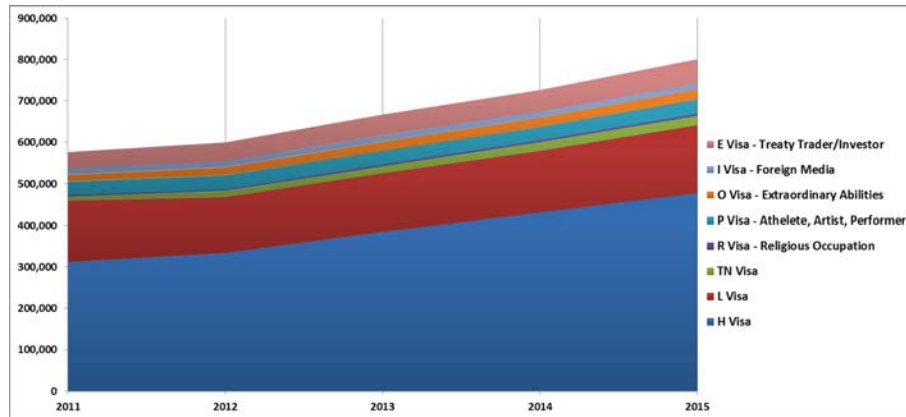
Non-immigrant Visa Fiscal Year 2015 ~11MM



H, L, TN Visa



Common Work Visa



Recommendations – Employers & Employees

- Internet of things – Google it!
- Student Visa – F1
- OPT time period after graduations – up to 2 years (+6 months extension)
- Further studies
- Talk to the experts – your boss / HR / immigration attorneys



Recommendations – Employers & Employees

- Get a tax consultant / same taxes
- Application forms
- Wait times for Visa / Green Card
- Changing roles / jobs / location /
field of expertise
- Dependent EAD



TN Visa

- Must be citizen of Canada or Mexico
- No annual limitations
- Canadian citizens must apply in person at border or
airport – works for COE
- Mexican citizens must first obtain TN visa stamp, and
then apply in person at border/airport – works for
COE
- If within U.S., Canadian and Mexican citizens may file
I-129 petition with USCIS



TN Visa

- 3 year limit, and indefinite 3 year-extensions
- Transfer to new job location (same employer) – No action required
- May process for green card through immigrant visa processing – obtain EAD to continue to work



New H1-B Visa Reforms

- Speculations vs reality...
- Applicable for new applicants only
- Applicable for employers who employ 15% H1-Bs
- Minimum wage from \$60K to \$130K
- ★



H-1B vs L

Essential Differences	H-1B	L (L-1A, L-1B)
Education & Prior Work Experience	Foreign national must have at least a US bachelor's degree or its equivalent. There is no minimum work experience required ★	There is no minimum educational requirements. Foreign national must have worked in a related company outside the US for at least 1 year
Foreign Company Requirement	The US employer is not required to be related to any company outside the US	The related foreign company that employed the foreign national outside the U.S. prior to admission must continue to remain active and doing business during the entire duration of the foreign national's stay in the U.S.



H-1B vs L

Essential Differences	H-1B	L (L-1A, L-1B)
Quota Limitation	Annual numerical limit of 65,000 (Regular Cap) during a fiscal year (+ 20,000 – Master's Exemption)	No annual numerical limit during a fiscal year
Labor Condition Application (LCA)	An employer must submit a Labor Condition Application (LCA) that has been certified by the U.S. Department of Labor along with the H1B petition	No LCA requirement



H-1B vs L

Essential Differences	H-1B	L (L-1A, L-1B)
USCIS Petition Fees	Form I-129 - \$325 Fraud Prevention and Detection Fee - \$500 (Only for initial H1B approval for each individual beneficiary) ACWIA Fee - \$750 or \$1500 Public Law 111-230 Fee - \$2000 , if applicable.★	Form I-129 - \$325 Fraud Prevention and Detection Fee - \$500 (Only for initial L1A approval for each individual beneficiary) No ACWIA Fee Public Law 111-230 Fee - \$2250 , if applicable



H-1B vs L

Essential Differences	H-1B	L (L-1A, L-1B)
Max Period of Stay	Total maximum period of stay is 6 years which can be granted in no more than 3-year increments.★	Total maximum period of stay is 7 years (5 years for L-1B) which is generally granted for up to 3 years initially and extensions granted in 2-year increments.



H-1B vs L

Essential Differences	H-1B	L (L-1A, L-1B)
Work Permit for Spouse	Spouse of an H1B visa holder in H-4 status may not accept employment in the US ★	Spouse of an L1A or L1B visa holder in L-2 status may be eligible to seek employment
Payroll	Foreign national must be on the payroll of the US employer	Foreign national may be on the payroll of the U.S. employer and/or the foreign company



H-1B vs L

Essential Differences	H-1B	L (L-1A, L-1B)
Blanket Provision	There is no Blanket Provision for H1B. The employer must file an I-129 petition with USCIS on behalf of every individual foreign national proposed to be hired on H1B	The Blanket L provision allows employees being transferred from one qualifying organization to another bypass the USCIS I-129 petition process and proceed directly to the appropriate U.S. Embassy or Consulate abroad to apply for an L1A or L1B visa



H-1B vs L

Essential Differences	H-1B	L (L-1A, L-1B)
Changing Employers – Portability	H1B portability provisions allow a foreign national in H1B status to begin working for a new H1B employer as soon as the new employer files an H1B petition for him or her without having to wait for USCIS approval of the petition	A foreign national in L1A or L1B status can work only for a qualifying member of the multinational group (parent, subsidiary, sister, branch, or affiliated company) that filed the petition



H-1B vs L

Essential Differences	H-1B	L (L-1A, L-1B)
Path to Green Card / Permanent Residency	Most H1B visa holders would require a labor certification filed on their behalf through the Department of Labor to be eligible for the Green Card	L1A visa holders may be able to apply for an expedited Green Card in the EB-1C category and waive the labor certification process



References & Recommendations

www.travel.state.gov

www.uscis.gov

www.immihelp.com

www.path2usa.com

www.workpermit.com

www.ustraveldocs.com

<http://www.visapro.com>



Thank YOU!

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Appendix



Petition Approval

Some temporary worker categories are limited in total number of petitions which can be approved on a yearly basis. Before you can apply for a temporary worker visa at a U.S. Embassy or Consulate, a Petition for a Non-immigrant Worker, Form I-129, must be filed on your behalf by a prospective employer and be approved by USCIS. For more information about the petition process, eligibility requirements by visa category, and numerical limits, if applicable, see Working in the U.S. and Temporary (Non-immigrant) Workers on the USCIS website. Once the petition is approved, USCIS will send your prospective employer a Notice of Action, Form I-797.



How to Apply

After USCIS approves the Petition for a Non-immigrant Worker (Form I-129), you may apply for a visa. There are several steps in the visa application process. The order of these steps and how you complete them may vary at the U.S. Embassy or Consulate where you apply. Please consult the instructions available on the embassy or consulate website where you will apply.



Complete The Online Visa Application

Online Non-immigrant Visa Application, Form DS-160 – Learn more about completing the DS-160. You must: 1) complete the online visa application and 2) print the application form confirmation page to bring to your interview.

Photo –You will upload your photo while completing the online Form DS-160. Your photo must be in the format explained in the Photograph Requirements.



Schedule an Interview

While interviews are generally not required for applicants of certain ages (13 & younger or 80 & older), consular officers have the discretion to require an interview of any applicant, regardless of age.

You must schedule an appointment for your visa interview, generally, at the U.S. Embassy or Consulate in the country where you live. You may schedule your interview at any U.S. Embassy or Consulate, but be aware that it may be difficult to qualify for a visa outside of your place of permanent residence.

Wait times may vary.



Prepare for your Interview

Fees - Pay the non-refundable visa application fee, if you are required to pay it before your interview. When your visa is approved, you may also pay a visa issuance fee, if applicable to your nationality.



Gather Required Documentation

Passport valid for travel to the United States - Your passport must be valid for at least six months beyond your period of stay in the United States (unless exempt by country-specific agreements). If more than one person is included in your passport, each person who needs a visa must submit a separate application.

Non-immigrant Visa Application, Form DS-160 confirmation page.

Application fee payment receipt, if you are required to pay before your interview.



Gather Required Documentation

Photo – You will upload your photo while completing the online Form DS-160. If the photo upload fails, you must bring one printed photo in the format explained in the Photograph Requirements.

Receipt Number for your approved petition as it appears on your Petition for a Non-immigrant Worker, Form I-129, or Notice of Action, Form I-797, from USCIS.

L Visa Applicants – If you are included in an L blanket petition, you must bring Form I-129S, Non-immigrant Petition Based on Blanket L Petition, to your interview.



Additional Documents May be Required

Review the instructions on how to apply for a visa on the website of the embassy or consulate where you will apply. Additional documents may be requested to establish if you are qualified. Proof of compelling ties to your home country would be required to demonstrate your intent to return back from The US.

A residence abroad which you do not intend to abandon

Your family relationships

Your economic situation

Your long term plans



Attend your Visa Interview

During your visa interview, a consular officer will determine whether you are qualified to receive a visa, and if so, which visa category is appropriate based on your purpose of travel. You will need to establish that you meet the requirements under U.S. law to receive the category of visa for which you are applying.

Ink-free, digital fingerprint scans will be taken as part of your application process. They are usually taken during your interview, but this varies based on location.



Attend your Visa Interview

After your visa interview, your application may require further administrative processing. You will be informed by the consular officer if further processing is necessary for your application.

When the visa is approved, you may pay a visa issuance fee if applicable to your nationality, and will be informed how your passport with visa will be returned to you. Review the visa processing time, to learn how soon your passport with visa will generally be ready for pick-up or delivery by the courier.



Entering the United States

A visa allows a foreign citizen to travel to a U.S. port-of-entry (generally an airport) and request permission to enter the United States. A visa does not guarantee entry into the United States. The Department of Homeland Security (DHS), U.S. Customs and Border Protection (CBP) officials at the port-of-entry have authority to permit or deny admission to the United States. If you are allowed to enter the United States, the CBP official will provide an admission stamp or paper Form I-94, Arrival/Departure Record.

