

E2 Visa Legal Requirements and Forms

I. ELIGIBILITY REQUIREMENTS (Must Meet Before Starting)

1. Treaty Country Nationality

You must be a national of a country with which the United States maintains a treaty of commerce and navigation. The U.S. Department of State maintains an official list of qualifying countries.

2. Substantial Investment Requirements

- Have invested, or be actively in the process of investing, a substantial amount of capital in a bona fide enterprise in the United States
- There is no set E2 visa minimum investment amount set by USCIS. It depends on what business you're investing in
- Investment must be "at risk" and irrevocably committed to the business
- Usually requires over \$100,000 investment in the business and proof of source of funds

3. Business Requirements

- A bona fide enterprise refers to a real, active, and operating commercial or entrepreneurial undertaking which produces services or goods for profit
- Business must meet all legal requirements for operation in its jurisdiction
- The investment enterprise may not be marginal. A marginal enterprise is one that does not have the present or future capacity to generate more than enough income to provide a minimal living for the treaty investor and his or her family

4. Control and Management

- Be seeking to enter the United States solely to develop and direct the investment enterprise. This is established by showing at least 50% ownership of the enterprise or possession of operational control through a managerial position

II. FORMS TO COMPLETE (In Order)

Step 1: Primary Forms

A. Form DS-160 (Online Nonimmigrant Visa Application)

- Form DS-160 must be filled in and filed online on the Consular Electronic Application Center (CEAC) website
- The DS-160, Online Nonimmigrant Visa Application form, is for temporary travel to the United States
- Must be completed for each family member applying

- Form DS-160 (Nonimmigrant Visa Application): There is technically no fee when filing the DS-160 itself. However, there is a processing fee specific to the type of visa you're applying for. In 2025, the processing fee for an E-2 is \$315

B. Form DS-156E (Treaty Trader/Investor Application)

- Required specifically for E-2 visa applicants
- Fully completed form DS-156E parts I, II and III

C. Form I-129 (For Change of Status within US)

- If you're in the US, file a change of status through USCIS with Form I-129 (Petition for a Nonimmigrant Worker)
- Form I-539 (Application to Extend/Change Nonimmigrant Status): \$470 – required for spouses and children under 21
- Optional: Form I-907: \$2805 for premium processing (expedited review within 15 business days)

III. SUPPORTING DOCUMENTS (Organized by Tab System)

Applications must be sent as .PDF files, divided into sections clearly indicated by lettered or numbered tabs. You must restrict your application to 50 standard sized pages of information (excluding Tabs A-C and G-28)

Tab A: Form G-28 (If Represented)

- Notice of Entry of Appearance as Attorney or Representative
- Include attorney's contact email and phone number

Tab B: DS-160 Confirmation Pages

- Confirmation pages for all applicants

Tab C: Passport Copies

- A copy of your passport which is valid for at least six months beyond the period of stay in the U.S. and with at least one blank page
- Passport style color photograph showing full face without head covering against a light background

Tab D: Cover Letter

Cover letter describing company, position and beneficiary. This letter must address all requirements for E visa eligibility as defined by the Foreign Affairs Manual and US law, including:

- That the investor has invested or is actively investing
- That the enterprise is real and active
- That the applicant can develop and direct operations
- Unequivocal intent to depart US when E status ends

Tab E: Ownership and Nationality

This tab must include proof of treaty country ownership (at least 50%) and controlling interest in the enterprise:

- Articles of incorporation
- Stock certificates and ledgers
- Operating agreements
- Organizational charts showing ownership structure
- Passports of all owners showing treaty country nationality

Tab F: Investment Documentation

Evidence of substantial investment:

- Purchase agreements and closing documents
- Wire transfers
- Bank statements showing fund transfers
- Lease contracts (must include lease length and start/end dates, property address and size, rental amount, landlord and tenant names, and all required signatures)
- Escrow agreements
- Receipts for business purchases
- Equipment invoices
- Franchise agreements (if applicable)

Source of Funds Documentation:

- USCIS will ask for documents confirming the source of the funds that you are investing, like pay records, bank transfer records, and other financial documents
- Tax returns showing income
- Sale documents if funds from property/business sale
- Loan documents if applicable
- Gift letters if applicable

Tab G: Real and Operating Business

This tab must include proof that the enterprise is currently running or will open its doors imminently:

- Business licenses and permits
- Utility bills (electrical, water, etc.)

- Monthly bank statements for current year
- Website printouts
- Marketing materials
- Customer contracts or invoices
- Photos of business premises

Tab H: Marginality

Evidence the business is not marginal:

- **Business Plan (Critical Document)**
 - These plans will generally include a market analysis, a personnel plan (including job descriptions and salaries), a 5-year financial projection (including profit and loss, a balance sheet and a cash flow forecast) and, of course, an executive summary
 - All applicants should also include a business plan for the next five years prepared by a certified C.P.A., including projected expenses and profits
- Financial statements (balance sheet, P&L, cash flow) for last 3 years if existing business
- Tax returns (first 2 pages) for last 2 years if applicable
- Payroll records, W-2s, W-4s, 1099s
- Evidence of current employees

Tab I: Executive/Managerial Capacity or Essential Skills

- Evidence that you will be employed in a supervisory or executive capacity, or possess highly specialized skills essential to the efficient operation of the firm
- Resume/CV of applicant
- Educational credentials (degrees, diplomas, transcripts)
- Job description and organizational chart
- Evidence of specialized skills or experience

Tab J: Intent to Depart

- Statement of intent to leave US when visa expires
- Evidence of ties to home country (property ownership, family ties, etc.)

IV. ADDITIONAL REQUIREMENTS

Medical and Security

- Police certificates may be required depending on consulate
- Medical examination may be required
- Biometric data collection at interview

Financial Support

- Evidence of financial support (Form I-134, Affidavit of Support, may be requested)

For Dependents

- Spouses and children under the age of 21 who wish to accompany or join you in the U.S. for the duration of your stay can apply for an E2 treaty investor visa
- Marriage certificates
- Birth certificates for children
- Separate DS-160 for each family member

V. APPLICATION PROCESS (Sequential Steps)

1. **Verify Treaty Country Status**
2. **Make Investment** - Funds must be invested or irrevocably committed before applying
3. **Register Business** - In some countries, before you can apply for an E2 visa as an individual applicant, your company (non-US) will first need to be registered as an E2 Treaty Investor Business
4. **Complete DS-160 Online**
5. **Pay Fees** - Application fee (\$315) plus any reciprocity fees
6. **Compile Documentation** in tab format (maximum 50 pages excluding certain tabs)
7. **Submit Application** to consulate (usually electronically)
8. **Schedule Interview** after initial review
9. **Attend Interview** at US Embassy/Consulate
10. **Receive Decision** - Qualified treaty investors and employees will be allowed a maximum initial stay of two years

VI. IMPORTANT NOTES

- It is advisable to file your visa extension application at least 12 weeks before visa expiry
- The E2 visa allows for unlimited renewals, meaning that as long as the visa holder continues to meet the eligibility requirements, they can keep renewing the visa
- Processing times vary by consulate and additional administrative processing may be required
- All documents must be in English or translated with certified translations
- The investment must be "at risk" before applying - merely having funds in a bank account does not qualify

This comprehensive guide covers all legal requirements, documents, and forms needed for an E2 visa application in the proper sequential order. Always check with the specific US Embassy or Consulate where you'll apply, as requirements can vary slightly by location.