

Immigration

▶▶▶ under NAFTA



NAFTA provides for expedited admission of business persons from the United States, Canada and Mexico, and for temporary employment in specific occupations.

BUSINESS VISITORS

Visitors under NAFTA may not receive any remuneration from a U.S. employer. Also, the individual must satisfy the general requirements for B-1 (business) visitors such as maintaining a home in the country of residence with no intention of abandoning it; evidence that the proposed business activity is international in scope; and confirmation that the individual will not enter the U.S. workforce.

Citizens of the United States, Canada and Mexico may apply as business visitors to perform various activities such as:

- Research and design, including technical, scientific and statistical research conducted for an enterprise located in one of the three countries
- Marketing, including market researchers and analysts conducting research or analysis
- Sales, including sales representatives and agents taking orders or negotiating contracts for goods or services, but not delivering or providing the services
- Distribution, including transportation operators transporting goods or passengers (certain restrictions apply)
- After-sales service, including installers, repair and maintenance personnel, and supervisors possessing essential knowledge to the seller's contractual obligation who perform services and/or train workers to perform services under a warranty or other after-sales service contract



ENTERING THE UNITED STATES

Canadian citizens are visa exempt, so they may apply for admission directly at a U.S. Port of Entry. As of June 1, 2009, the final phase of the Western Hemisphere Travel Initiative (WHTI) was implemented and Canadian citizens must present a valid passport or other WHTI-compliant document for entry.

Mexican citizens must first obtain a Border Crossing Card from a US embassy/consulate in Mexico, prior to being admitted into the U.S.

EMPLOYMENT

Citizens of the United States, Canada and Mexico may apply for work visas/status in select professions within NAFTA countries. Each profession has specific education, experience, or licensure

requirements which must be met to obtain employment status. Included among the professions are:

- Accountants
- Architects
- Computer Systems Analysts
- Economists
- Engineers
- Graphic Designers
- Interior Designer
- Management Consultants
- Scientific Technicians/Technologists
- Social Workers and certain professions within the medical industry

Employment must be temporary in nature, and the individual should not have immigrant intent—plans to reside permanently in the country. The individual must also meet the specific requirements for the profession. Additionally, employment under NAFTA is subject to a strike provision—if a strike or other labor dispute exists at the employer's facility, an application may be denied.

EMPLOYMENT IN THE UNITED STATES

A Canadian citizen may apply for TN (Trade NAFTA) status directly at a U.S. Port of Entry or at a U.S. pre-clearance location at a Canadian international airport. The Canadian citizen must appear with the appropriate documents such as U.S. employer support letter, original evidence of education, letter(s) confirming prior employment experience, evidence of licensure, and evidence of Canadian citizenship.

A Mexican citizen must apply for a TN visa at a U.S. embassy/consulate. The Mexican citizen must schedule an appointment for the visa, and then must appear with the appropriate documents such as U.S. employer support letter, original evidence of education, letter(s) confirming prior employment experience, evidence of licensure, and evidence of Mexican citizenship.

TN status is now issued in three-year increments and, at this time, an individual may renew his/her TN status indefinitely. Also, an applicant for TN status does not have to provide evidence that s/he maintains a foreign residence.

Miller Canfield assists clients in securing employment status under NAFTA. Please contact our immigration group at 734.668.8990 for details.