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TN Visa

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Submitted by admin on Mar 18th 2009

TN Classification

TN visas are available to Canadian and Mexican nationals (?alien?) who enter the US to perform professional services in certain designated professions and who possess the necessary qualification credentials to be considered a professional in one of the fields on Schedule 2 of NAFTA. As discussed below, the TN category has several distinct advantages over other visas (H-1: Temporary Professional Workers and L-1: Intra company Transferees) most commonly used to retain professional alien workers.

Employing Canadian and Mexican Professionals Under NAFTA

The 1994 North American Free Trade Agreement (NAFTA) makes temporary employment in the U.S. easier for certain Canadian and Mexican workers. NAFTA created a new classification, ?TN,? for eligible Canadian and Mexican professional workers and also affected terms of admission for Canadians admitted to the U.S. under other nonimmigrant classifications.

TN employment must be in a profession listed in Appendix 1603.0.1 to NAFTA and the TN employee must possess the credentials required. There is no annual limit on TN-1 admissions from Canada or Mexico.

Petition Document Requirements

For a Canadian citizen:

This classification does not require a petition for employment if the alien is a Canadian citizen and is outside of the U.S. Canadian citizens need not obtain TN-1 consular visas, and may apply directly at Class A U.S. ports of entry.

The applicant must provide:

- A statement from the employer with a full description of the nature of the duties the beneficiary will be performing, the anticipated length of stay, and the arrangements for pay or reward;
- Evidence that the beneficiary meets the education and/or alternative credentials for the

activity;

- Evidence that all licensure requirements, where applicable to the activity, have been satisfied; and
- Evidence of Canadian citizenship.

For a Mexican citizen:

This classification does not require a petition for employment if the alien is a Mexican citizen and is outside the U.S. However, Mexican citizens are still required to obtain TN visas at the U.S. consulate abroad. As part of the visa application process, an interview at the embassy consular section is required for most visa applicants. Interviews are generally by appointment only. As part of the visa interview, an ink-free, digital fingerprint scan can generally be expected. The waiting time for an interview appointment for most applicants is a few weeks or less, but for some embassy consular sections it can be considerably longer.

The applicant must provide:

- A statement from the employer with a full description of the nature of the duties the beneficiary will be performing, the anticipated length of stay, and the arrangements for pay or reward;
- Evidence that the beneficiary meets the education and/or alternative credentials for the activity;
- Evidence that all licensure requirements, where applicable to the activity, have been satisfied;
- Evidence of Mexican citizenship;
- An application, Nonimmigrant Visa Application, Form DS-156, completed and signed;
- Supplemental Nonimmigrant Visa Application, Form DS-157 provides additional information about your travel plans. Submission of this completed form is required for all male applicants between 16-45 years of age. It is also required for all applicants from state sponsors of terrorism age 16 and over, irrespective of gender, without exception;
- A passport valid for travel to the United States and with a validity date at least six months beyond the applicant's intended period of stay in the United States;
- An application, Nonimmigrant Visa Application, Form DS-160, completed and signed;
- Supplemental Nonimmigrant Visa Application, Form DS-157 provides additional information about your travel plans. Submission of this completed form is required for all male applicants between 16-45 years of age. It is also required for all applicants from state sponsors of terrorism age 16 and over, irrespective of gender, without exception;
- A passport valid for travel to the United States and with a validity date at least six months beyond the applicant's intended period of stay in the United States.

Nature of Employment

To qualify for TN status, the alien's intended U.S. activity must be in a profession listed on Schedule 2 of NAFTA. Merely citing the Schedule 2 profession is insufficient; the alien must actually perform professional-level activities in the United States.

Alien's Qualifications

To qualify for TN status, the alien must possess the necessary credentials to be considered a professional in one of the Schedule 2 categories. A bachelor's or higher degree is usually required, unless Schedule 2 lists alternative qualifications. Equivalency to a required degree through a combination of experience and education is not acceptable for TN purposes; aliens in this situation must apply for H-1 status.

Duration of Stay

Pursuant to NAFTA, an alien may be admitted to the United States in TN status for the period of time required by the employer, up to a maximum initial period of stay of three years. TN professionals can receive extensions of stay in three-year increments, with no outside limit on the total period of stay. The limit on stay for H-1B (six years) and L nonimmigrants (five or seven years) do not apply to TN aliens. In addition, Canadian and Mexican professionals who have already completed six years in the H-1 or L nonimmigrant category can immediately qualify for the TN category without fulfilling the requirement of one-year abroad imposed by the USCIS regulations for H-1 and L aliens.

The only limitation on the duration of stay of TN nonimmigrants is that the purpose of the stay must continue to be temporary.

Canadian nationals, however, can only receive six-month visas based on Canada's reciprocity with the United States. As a result, nationals of Canada will receive TN visa for periods of time shorter than the period of petition approved on Form I-797 (USCIS petition approval notice). Note, however, that they are entitled to be admitted to the US for the full period of validity of their petition approval notices. One way to address this difficulty is for the alien with a limited-duration visa to carry a letter from the employer requesting that the USCIS border inspector admit the alien to the US for the full period of stay to which the alien is entitled and cite to the USCIS policy guidelines in that letter.

Staying Beyond Your Authorized Stay in the U.S. and Being Out of Status

It is important that you depart the U.S. on or before the last day you are authorized to be in the U.S. on any given trip, based on the specified end date on your Arrival-Departure Record, Form I-94. Failure to depart the U.S. will cause you to be out-of-status. Staying beyond the period of time authorized by the Department of Homeland Security (DHS) and being out-of-status in the U.S. is a violation of U.S. immigration laws, and may cause you to be ineligible for a visa in the future for return travel to the U.S. Select [Classes of Aliens Ineligible to Receive Visas](#) [2] to learn more.

Staying unlawfully in the U.S. beyond the date CBP officials have authorized, even by one day, results in your visa being automatically voided, in accordance with INA 222(g). Under this provision of immigration law, if you overstay on your nonimmigrant authorized stay in the U.S. your visa will be automatically voided. In this situation, you are required to reapply for a new nonimmigrant visa, generally in your country of nationality.

Special Conditions Nonimmigrant Intent and Permanent Residence Papers

Although TN aliens need not show that they maintain a foreign residence during their U.S. stay, they must establish their nonimmigrant intent. The filing and approval of an immigrant petition, while not dispositive, may be a relevant factor in determining whether TN aliens are

legitimate nonimmigrants. USCIS has indicated informally that they do not consider filing of a labor certification application for permanent residence to be the dispositive factor in the matter of nonimmigrant intention in these instances. USCIS has recently confirmed that, unlike H-1B and L aliens, TN aliens are not completely exempt from the presumption of immigrant intent. If the alien's intent is to remain in the United States temporarily, the fact that a TN alien is a beneficiary of an approved employment-based petition may not be the sole reason for a denial of an application for admission (or extension or readmission), but this factor must be taken into account each time a TN nonimmigrant applies for admission.

Strike Provisions of NAFTA

Aliens seeking entry in TN status will be subject to the "strike" provisions in NAFTA. The strike or work stoppage component of the treaty provides that if the Department of Labor certifies to the USCIS that the place of employment to which a Canadian or Mexican national is destined is the subject of a strike or other labor dispute involving a work stoppage, and the inspecting officer believes that the temporary entry of the alien may affect adversely either the settlement of such labor dispute or the employment of a person involved in the dispute, then the applicant for admission may be refused or a TN petition may be denied. If, however, the strike commences after the business person's U.S. entry, the Mexican or Canadian national will not be subject to forced departure. Note that the strike provision is triggered only if there is certification of a strike or other labor dispute by the US Department of Labor.

Family Members of TN Aliens

The family members (spouse and unmarried children under 21) of the principal alien are classified in the TD category. The family members cannot engage in employment unless they are independently qualified. Family members, however, can undertake courses of study in the United States while in TD status.

Choosing the TN Category or An Alternative

The principal alternative to the TN category for employers seeking to hire Canadian and Mexican professionals on a temporary basis is use of the H-1B nonimmigrant category. With regard to employers seeking the services of a Canadian professional, three big advantages exist to the TN category over the H-1 category:

- The USCIS does not have to approve a petition submitted by the employer, thus expediting the admission procedure for the Canadian professional.
- The six-year limit on stay for H-1B aliens does not apply to the TN category. In addition, Canadians who have already completed six years in the H-1 or L nonimmigrant category can immediately qualify for the TN category without fulfilling the requirement of one-year-abroad imposed by the USCIS regulations for H-1 and L aliens.
- There is no annual ceiling on the admission of Canadian TN professionals, while the H-1B category has a 65,000 cap.

Designated Professions under Schedule 2 of NAFTA

The Canadian or Mexican professional qualifying for the TN category must be engaged in a profession included on Schedule 2 of NAFTA.

Schedule 2 of the North American Free Trade Agreement

- Accountant - baccalaureate degree, licenciatura degree, C.P.A., C.A., C.G.A., or C.M.A.
- Architect - baccalaureate degree, licenciatura degree, or state/provincial license
- Computer Systems Analyst - baccalaureate or licenciatura degree; or post-secondary diploma or certificate and three years? experience
- Disaster Relief Insurance Claims Adjuster - baccalaureate or licenciatura degree and successful completion of training in the appropriate areas of insurance adjustment pertaining to disaster relief claims; or three years? experience in the field of claims adjustment and successful completion of training in the appropriate areas of insurance adjustment pertaining to disaster relief claims
- Economist - baccalaureate degree or licenciatura degree
- Engineer - baccalaureate degree, licenciatura degree, or state/provincial license
- Forester - baccalaureate degree, licenciatura degree or state/provincial license
- Graphic Designer - baccalaureate or licenciatura degree; or post-secondary diploma or certificate and three years? experience
- Hotel Manager - baccalaureate or licenciatura degree in hotel management; or post-secondary diploma or certificate and three years? experience
- Industrial Designer - baccalaureate or licenciatura degree; or post-secondary diploma or certificate and three years? experience
- Interior Designer - baccalaureate or licenciatura degree; or post-secondary diploma or certificate and three years? experience
- Land Surveyor - baccalaureate degree, licenciatura degree, or state/provincial/federal license
- Landscape Architect - baccalaureate or licenciatura degree
- Lawyer (including Notary in the province of Quebec) - L.L.B., J.D., L.L.M., B.C.L., licenciatura degree (five years), or membership in a state/provincial bar
- Librarian - M.L.S. or B.L.S. (for which another baccalaureate or licenciatura degree was a prerequisite.)
- Management Consultant - baccalaureate degree, licenciatura degree or five years? experience in consulting or related field
- Mathematician (including Statistician) - baccalaureate or licenciatura degree
- Range Manager/ Range Conservationist - baccalaureate or licenciatura degree
- Research Assistant (working on a post-secondary educational institution) - baccalaureate or licenciatura degree
- Scientific Technician/Technologist: Must work in direct support of the professionals in the following disciplines: chemistry, engineering, geology, geophysics, meteorology, physics, astronomy, agricultural sciences, biology, or forestry. Must possess theoretical knowledge of the discipline; Must possess ability to solve practical problems in the discipline, or the ability to apply principles of the discipline to basic or applied research.
- Social Worker - baccalaureate or licenciatura degree
- Sylviculturist (including Forestry Specialist) - baccalaureate or licenciatura degree
- Technical Publications Writer - baccalaureate or licenciatura degree; or post-secondary diploma or certificate and three years? experience
- Urban Planner (including Geographer) - baccalaureate or licenciatura degree
- Vocational Counselor - baccalaureate or licenciatura degree
- Medical/Allied Professional

*Dentist - D.D.S., D.M.D., Doctor en Odontologia, Doctor en Cirugia, Dental, or state/

provincial license

*Dietitian - baccalaureate degree, licenciatura degree, or state /provincial license

*Medical Laboratory Technologist (Canada) / Medical Technologist (Mexico) -
baccalaureate or licenciatura degree;

or post-secondary diploma or certificate and three years? experience: must be
seeking entry to perform chemical,

biological, hematological, immunologic, microscopic, and bacteriological tests,
procedures, experiments, and

analyses in laboratories for diagnosis, treatment, or prevention of disease.

*Nutritionist - baccalaureate or licenciatura degree

*Occupational Therapist - baccalaureate degree, licenciatura degree or
state/provincial license

* Pharmacist - baccalaureate degree, licenciatura degree, or state/provincial license

*Physician (teaching and /or research only) - M.D., Doctor en Medicina, or
state/provincial license

*Physio/Physical Therapist - baccalaureate degree, licenciatura degree, or
state/provincial license

*Psychologist - licenciatura degree or state/provincial license

*Recreational Therapist - baccalaureate or licenciatura degree

*Registered Nurse - licenciatura degree or state/provincial license

*Veterinarian - D.V.M., D.M.V., Doctor en Veterinaria, or state/provincial license

- Scientist:

*Agriculturist (including Agronomist) - baccalaureate or licenciatura degree

*Animal Breeder - baccalaureate or licenciatura degree

*Animal Scientist - baccalaureate or licenciatura degree

*Apiculturist - baccalaureate or licenciatura degree

*Astronomer - baccalaureate or licenciatura degree

*Biochemist - baccalaureate or licenciatura degree

*Biologist - baccalaureate or licenciatura degree

*Chemist - baccalaureate or licenciatura degree

*Dairy Scientist - baccalaureate or licenciatura degree

*Entomologist - baccalaureate or licenciatura degree

*Epidemiologist - baccalaureate or licenciatura degree

*Geneticist - baccalaureate or licenciatura degree

*Geochemist - baccalaureate or licenciatura degree

*Geologist - baccalaureate or licenciatura degree

*Geophysicist (including Oceanographer in Mexico) - baccalaureate or licenciatura
degree

*Horticulturist - baccalaureate or licenciatura degree

*Meteorologist - baccalaureate or licenciatura degree

*Pharmacologist - baccalaureate or licenciatura degree

*Physicist (including Oceanographer in Canada) - baccalaureate or licenciatura degree

*Plant Breeder - baccalaureate or licenciatura degree

*Poultry Scientist - baccalaureate or licenciatura degree

*Soil Scientist - baccalaureate or licenciatura degree

*Zoologist - baccalaureate or licenciatura degree

- Teacher

- *College - baccalaureate or licenciatura degree
- *Seminary - baccalaureate or licenciatura degree
- *University -baccalaureate or licenciatura degree

Issues Regarding Qualifications of Alien

With regard to the Schedule 2 listings, several issues have arisen regarding proper qualifications. For instance, when a bachelor's or a licenciatura degree is required under Schedule 2, a combination of education and experience equivalent to a bachelor's degree will not be accepted by the USCIS. If the alien must rely on a combination of education and experience, H-1 status should be sought for the alien. Note that a Canadian three-year bachelor's degree program satisfies the degree requirement; the important element is the requisite degree and not the length of the course of study.

Procedures for Canadian TN Professionals

On Oct. 1, 2012, USCIS will begin accepting Form I-129, Petitions for Nonimmigrant Worker, filed on behalf of Canadian citizens who are outside the United States and seeking classification as a TN nonimmigrant.

USCIS currently only accepts Form I-129 in connection with a request to extend a TN nonimmigrant's stay or to change a nonimmigrant's status to TN.

Canadian citizens continue to have the option of applying to U.S. Customs and Border Protection (CBP) for TN classification in conjunction with an application for TN admission to the United States.

Canadian professionals may enter the United States under NAFTA without the requirement of an USCIS petition approval required in the H-1 category; these professionals can enter the United States simply by providing documentation at the port of entry that they are engaged in one of the designated professions and possess the requisite educational credentials to qualify in the listed profession. Canadian professionals are designated as TN-1 nonimmigrants. The admission is given initially for three years. It is then extendable indefinitely on a three-year basis.

Procedures for Mexican TN Professionals

Mexican professionals require a visa to request admission to the U.S. A USCIS approved petition is not required. Mexican professionals are designated as TN-1 nonimmigrants. The admission is given initially for three years. It is then extendable indefinitely on a three-year basis.

Visa Denial

If the consular officer should find it necessary to deny the issuance of a TN visa, the applicant may apply again if there is new evidence to overcome the basis for the refusal.

Nonimmigrant Visas:

TN Visa ^[3]

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Links:

[1] <https://immigration.com/visa/tn-visa/tn-visa>

[2] http://travel.state.gov/visa/frvi/ineligibilities/ineligibilities_1364.html

[3] <https://immigration.com/visa/nonimmigrant-visas/tn-visa>