



Immigration Law Tampa Bay

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B-Visa Parameters

1. The foreigner is staying in the U.S. for a limited time.

To prove this, list the precise period of stay in the extension application

2. The foreigner intends to depart the U.S. at the expiration of his or her stay.

To prove this, the best evidence is a copy of a return airline ticket. Otherwise, the foreigner should give some proof that he or she has a reason to go back to his or her home country (for example: a job, a house or other property, ownership of a business, or family ties).

3. The foreigner must maintain a foreign residence.

To prove this, list the foreigner's address in his or her home country the G-28 Form. If possible, include copies of recent documents that list the foreign address, such as phone bills or bank statements.

4. The foreigner must have enough money or other financial arrangements to prove that he or she will not work in the U.S.

To prove this for B-1 cases, provide a bank account statement or credit card statement showing that the foreigner has money to support himself or herself while in the U.S. Also, if the foreigner is an employee of a foreign company, include a letter from the foreigner employer that explains the purpose of the trip and verifies that it is paying for all the foreigner's expenses

To prove this for B-2 case, provide a bank account statement or credit card statement showing that the foreigner has money to support himself or herself while in the U.S. If he or she does not have enough money, then include a letter of support from a friend or

relative. The letter must explain (a) why the friend or relative would pay the expenses and (b) list the expenses the friend or relative will pay and (c) explain how the friend or relative has enough money to pay for the expenses (an affidavit of support may also have to be enclosed). The letter should be notarized.

5. The foreigner must engage in legitimate activities relating to business (B-1) or pleasure (B-2).

- The foreigner cannot work in the U.S. (receive a salary or other payment in the U.S. for work performed here)
- The B-1 activity must be associated with international trade or commerce
- The B-1 activity must benefit the foreigner or his business outside the U.S. (for example, any payments must be made to the foreigner outside the U.S.)
- A U.S. worker should not be able to do what the foreigner will do in the U.S.
- Work that the foreigner does should be controlled by the foreign employer

Examples of legitimate B-1 business activities:

(a) employee of foreign business coming to the U.S. to make sales, negotiate contracts, or take orders from existing clients for work that will be performed outside the U.S.

(b) foreigner coming to U.S. to purchase materials for use outside the U.S.

(c) foreigner coming to the U.S. pursuant to service or sales contract (foreigner cannot do “hands on” construction, building, or installation; but can train U.S. workers).

(d) foreigner coming to engage in consultations with U.S. business associates (the foreigner should not own the U.S. business he or she is consulting with).

(e) foreigner coming to U.S. in conjunction with litigation.

(f) foreigner attending professional or business conference, convention or seminar
Includes religious, educational or scientific conferences. If a speaker, the foreigner cannot be paid.

(g) foreigner wants to undertake independent research, such as market or product research

(h) foreigner is a professional who wants to arrange employment in the U.S.

(i) foreigner is an investor coming to take steps to set up his or her investment

(j) foreigner who will be transferred to the U.S. on L-1 Visa can come to obtain suitable physical premises for business (office space)

(k) foreigner would qualify for H-1B Visa, but is paid by foreign business not U.S. business (“B-1 in lieu of H-1B”). This is only granted when the work meets the six rules listed above.

(l) foreigner would qualify for H-3 Trainee Visa, but is paid by foreign employer (“B-1 in lieu of H-3”).

(m) foreigner is a foreign airline employee where E-2 or L-1 not possible (I-765 required)

(n) foreigner is on the board of directors for a U.S. company coming to attend a board meeting

(o) foreigner is a personal or domestic servant coming to U.S. with a U.S. citizen or nonimmigrant employer. Special rules apply.

(p) foreigner is a professional athlete coming to U.S. to participate in a tournament. Cannot earn salary or other money except for prize money. Cannot have a contract with U.S. sponsor (if so, use O-1 or P-1 Visa).

(q) foreigner is an amateur athlete or an entertainer coming to U.S. to try-out or audition for a position

Examples of “legitimate activities” for B-2 Visas:

(a) tourism

(b) social visits to friends/relatives

(c) health reasons

(d) participation in conventions of social organizations

(e) participation in amateur musical or sports events with no pay

(f) dependents of U.S. military personnel

(g) accompanying D or B-1 foreigners

(h) coming to U.S. to marry U.S. citizen, but will depart

(i) coming to U.S. to marry nonimmigrant then get spouse’s derivative status

(j) eligible for H-4 Visa but inconvenient or impossible to obtain it

(k) non-spouse partner or dependent not eligible for derivative status of E, H, or L nonimmigrant

(l) language students in course of short duration when course of study is less than 18 hours per week