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The Three Types of E-2 Visas

An E-2 visa is a perfect visa for an individual or company who wants to start or purchase a business in the United States. In order to obtain the visa, the applicant must invest in a business in the United States, be a national of a treaty country and ultimately hire U.S. workers. A full list of the visa requirements can be obtained by [clicking here](#). There are three distinct types of E-2 visas, the Investor E-2 visa, the Employee E-2 visa and the Dependent E-2 visa.

The Investor E-2 Visa

The investor E-2 visa is given to an applicant when he/she starts or purchases a business in the U.S. and meets all of the other E-2 visa requirements. The visa gives the applicant the ability to work in the company that was purchased or created and can be granted from anywhere between 3 months and 5 years. Regardless of how long the visa is granted for though, the applicant is given 2 years of E-2 status and work authorization when he/she enters the U.S.. As the applicant is only permitted to work for the enterprise that sponsors the visa, it is not necessary to apply for separate work authorization and as long as the applicant continues to run the business and the business adheres to the business plan, the visa can be renewed indefinitely.

The Employee E-2 Visa

Where the **E-2 Visa** applicant is an **employee**, the employee must be the same Nationality of the investor or the company that the investor E-2 visa is based on. The employee can be a Manager/supervisor or a worker with special skills making him or her essential to the running of the business. If the employee is a supervisor/manager, he/she should have ultimate control and responsibility for a large proportion of the enterprise's operations or a major component of the enterprise and employees. The supervisory element of the employee's position must be a primary function and the supervisor should be recruiting and supervising higher level employees.

The essential nature of an alien's "special skills" is determined by assessing the degree of proven expertise of the alien in the area of specialization, the uniqueness of the specific

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skills, the length of experience and training with the firm, the period of training needed to perform the contemplated duties, and the salary the special expertise commands. The employee can only work for the authorized company so it is not necessary to obtain work authorization.

The Dependent E-2 Visa

The spouse and children under 21 of an E-2 investor or E-2 employee can also get an E-2 visa. The only requirement is that the family members prove the familial relationship (eg. marriage or birth certificate) and the E-2 visa can be obtained when the Investor obtains the visa or later. The spouse can apply for work authorization from United States Citizenship and Immigration Service (USCIS) when he/she arrives in the U.S. and this will be granted within 90 days. The work authorization permits the spouse to work anywhere (including at the E-2 enterprise) and the authorization is granted for 1 year. (and can be renewed as long as the E-2 visa is valid). Children are not eligible for work authorization but they may go to school in the U.S. without an F-1 visa. When the children turn 21, they must find another visa as they are no longer eligible for the E-2 visa.

While there is some evidence to suggest that an E-2 visa spouse does not require separate work authorization, we still strongly advise clients to obtain work authorization from USCIS.

For more practical or legal advice contact [Scott Legal Services, P.C.](#). We offer services in a number of business areas including, Immigration, New Business set up, Contract review and development and entrepreneurial support. Call 212-223-2964 or email iscott@legalservicesincorporated.com for a consultation.

Ian E. Scott is a Harvard Law School Graduate, lawyer and author of [Law School Lowdown: Secrets of Success from the Application Process to Landing Your First Job](#). Mr. Scott worked as a corporate litigator in the law firm Cleary Gottlieb and currently runs his own law firm [Scott Legal Services, P.C.](#) specializing in Immigration Law & New Business set-up.