

# New U.S. Immigration Option Available to Israeli Citizens – E-2 (Treaty Investor) Visa

By [Nisha V. Fontaine \(Jagtiani\)](#)

May 16, 2019 | **IMMIGRATION**

After years of waiting, an agreement between the U.S. and Israel has been finalized, allowing Israeli citizens to pursue E-2 Treaty Investor Visas for the U.S.

## **Requirements for an E-2 (Treaty Investor) Visa**

A E-2 Treaty Investor Visa is available to a foreign national from a qualifying treaty country who has invested a substantial amount of capital in a real and operating enterprise in the U.S. – the U.S. E-2 Investment Enterprise.

The E-2 “Investor” can be an individual or a foreign entity. The E-2 “Investor” must be able to document that the capital was lawfully acquired and that the investment is at “true risk” in the true commercial sense (ie. subject to loss and unsecured against the assets of the U.S. enterprise) in the U.S. E-2 Investment Enterprise. Capital can include funds, value of goods/equipment purchased for the entity, intangible property, etc. Investment amounts can include fees incurred to professionals to commence operations, marketing (website portfolio), purchase of existing business/assets, U.S. payroll expenses, etc.

In addition, the U.S. E-2 Investment Enterprise must possess treaty country nationality (ie. be at least 50% owned by treaty country nationals), be real and operational (as opposed to a passive investment) and must not be marginal (i.e. it cannot solely provide income to the foreign national and his or her family).

E-2 Visas are not only available to individual owner investors, but also to qualifying employees that are either managerial/supervisory or essential, presuming they have the same nationality as the U.S. E-2 Investment Enterprise.

## **Benefits of an E-2 (Treaty Investor) Visa**

E-2 Visas allow owner-operators to reside in the U.S. full time, if they choose to do so, for the duration of their E-2 Visa. However, E-2 Visa holders can choose to simply intermittently enter the U.S.

A Principal E-2 Visa holder can also have their spouse and children (unmarried, under age 21) obtain their derivative E-2 visas as well. A Spouse of a Principal E-2 can seek an Employment Authorization Document (EAD) from USCIS, which upon approval, allows the spouse to work in the U.S. for any employer during its validity. Children may attend school, but are not allowed to work in the U.S.

E-2 Visas can be renewed indefinitely, as long as the U.S. E-2 Investment Enterprise continues to meet E-2 requirements (investment, marginality, real and operating enterprise, etc.) For Israeli citizens, an E-2 visa can only

be issued for a maximum duration of two (2) years at a time.

E-2 Visas are also better suited to those Israeli citizens seeking to pursue new business opportunities in the U.S. – on a small scale as well as a large scale – through investment in the U.S. While Israeli citizens previously have had E-1 (Treaty Trader) Visas available, the E-1 visa is for those Israeli nationals/entities engaged in substantial international trade with the U.S.

With the E-2 Visa, Israeli applicants can also directly apply at the Consulate for their E-2 Visa – foregoing the additional cost and expense and timing involved with processing the L-1 through U.S. Citizenship & Immigration Services and then applying for the L-1 Visa. Prior to the E-2 option, Israeli companies and citizens seeking to establish new businesses through investment in the U.S. were inherently reliant on obtaining an L-1 (Intracompany Transfer), which didn't necessarily always fit with the company's plans for the U.S. For the L-1, applicants had to establish that they were (1) employed abroad by a foreign employer for at least one full year in the preceding three, (2) had been in a position of managerial/executive capacity or of specialized knowledge, (3) would be temporarily transferring to a qualifying related entity in the U.S. in a position that was managerial/executive or specialized, and (4) that both the foreign entity and U.S. entity would continue operations during the L-1 validity. The L-1 application process involves submitting a complete L-1 Petition to USCIS, awaiting adjudication and if approved, obtaining an L-1 Visa from the U.S. Embassy in Israel. For those starting new U.S. entities, L-1 approvals are limited to a one (1) year approval. If the U.S. entity successfully commences operations, then the L-1 can be renewed – for a maximum of 5 or 7 years, respectively, depending on whether the applicant was an L-1A or L-1B.

### **Overview of E-2 Visa Application Process**

The U.S. Embassy in Israel has just recently published an [overview of the process to apply for the E-2 Visa in Israel](#) which includes a breakdown of the information/documents required to establish eligibility, preferred structure of E-2 Visa Application packet, as well as an overview of their E-2 Visa Application process.

### **First Applicant/Company Approval**

E-2 Visa Applications for Israeli citizens will be processed at the U.S. Embassy in Tel Aviv. The Embassy requires that the complete E-2 Visa Application be mailed to them in advance of scheduling the interview. They are currently reporting a review time between 2-3 weeks. Once they have completed their review, they will advise the E-2 Applicant to schedule their visa appt. to personally appear at the U.S. Embassy in Tel Aviv. If the applicant is successful at the interview, the applicant's passport, with E-2 visa, will be returned to them in approx. 10 days. There is no reciprocity fee for the E-2 Visa for Israeli citizens.

### **Employees Subsequent to Company Approval**

Once a company has received initial approval for registration through the first applicant, subsequent applicants are allowed to schedule their visa appt. and present their supporting/qualifying documents at the interview.

We are excited for our Israeli clients to be able to pursue this new vehicle to strategically pursue opportunities in the U.S. market.

**Disclaimer:** *The information in this post is provided for general informational purposes only, and may not reflect the current law in your jurisdiction. No information contained in this post should be construed as legal advice from our firm or the individual author, nor is it intended to be a substitute for legal counsel on any subject matter. No reader of this post should act or refrain from acting on the basis of any information included in, or accessible through, this post without seeking the appropriate legal or other professional advice on the particular facts and circumstances at issue from a lawyer licensed in the recipient's state, country or other appropriate licensing jurisdiction.*