

Non-immigrant Visa Petition Approval, Travel, and Visa Issuance

Article By:

Hilary T. Fraser

Rosanne Mayer

Foreign national visitors and workers who are temporarily resident in the U.S. often cannot depart the U.S. for business or leisure travel without triggering a requirement to renew their visa at a U.S. consular port abroad before returning to their job or family in the U.S. This article explains the process for temporary visa renewal for those making international trips. Non-immigrant visa (“NIV”) issuance generally requires an application and in-person interview at a U.S. embassy or consulate. Some interview waivers are granted for renewals and young and old dependents.

A visa is like a “key” to get into the United States; it allows a person to be inspected for admission to the U.S. The I-94 card issued with an NIV petition approval or issued upon admission to the United States gives the visa holder the right to remain in the U.S. for a specified period of time. Not everyone needs a visa, however. If you are not traveling internationally, you are not required to have a visa. Many Canadian citizen non-immigrants are also visa-exempt, and may enter the United States with only a passport and petition approval notice.

For most foreign nationals, no new visa is required for readmission from Canada or Mexico following a trip of less than 30 days if the petition approval notice indicates change of status or extension of status. Some H-1B visa holders may use a prior employer’s visa and a new petition approval to regain entry after foreign travel. Otherwise, if you wish to return to the United States following international travel, you must obtain a visa stamp at the U.S. embassy or consular office in your home country or certain third countries before you will be readmitted to the United States.

For foreign nationals currently residing in the United States, application at a consular post in Canada or Mexico is permitted. However, some foreign nationals may need a visitor’s visa to gain admission to Canada or Mexico. Moreover, anyone who has overstayed an NIV must seek NIV issuance in his or her home country.

Advance planning for your visa interview is necessary as there are several steps in the process. You should always check the instructions for NIV issuance particular to each consulate or embassy by finding their website here: <http://www.usembassy.gov/>. You should also check the

waiting periods for booking interviews and processing NIVs here:

<https://travel.state.gov/content/travel/en/us-visas/visa-information-resources/wait-times.html>.

The general process for NIV issuance requires applicants to:

1. Complete Form DS-160, Nonimmigrant Visa Application, online, printing the bar code confirmation page after electronic submission.
2. Pay visa issuance fees at a designated bank, post office or consulate, and keep fee receipts in order to book a visa interview.
3. Book a visa interview/appointment at a U.S. embassy or consulate.
4. Attend an interview on the scheduled date, bringing:
 - Passport valid for at least eight months;
 - DS-160 bar code confirmation receipt;
 - Fee receipt for any visa fees paid;
 - Interview appointment confirmation letter;
 - Copy of petition filing (e.g., I-129);
 - Original approval notice;
 - For employment-based visas (e.g., E, H, L, O, R), documentation of continued employment with the sponsor;
 - For dependents seeking dependent visas, marriage certificate (for spouse) and birth certificates (for children);
 - Documents showing applicant's ties to home country (e.g., property records, school enrollment, financial investments, bank accounts, employment opportunities, clear future plans to return after employment in the U.S. ends);
 - Other documentation specified by the U.S. embassy or consulate (check consulate website for additional requirements).
5. Wait approximately three to seven days for passport return with visa, or longer if a security clearance is performed.

Security Clearance and Inadmissibility

Security clearances are sometimes required based upon the applicant's country of birth, career or educational field, and the countries he/she has visited. Please be aware that a U.S. embassy or consulate has the right to refuse to issue you a visa, notwithstanding your USCIS visa petition approval.

NIV applications may be refused if an applicant is "inadmissible" due to certain health issues, having committed criminal acts or misrepresentation, or other reasons. Non-compliance with U.S. immigration laws on past trips to the United States can also cause a finding of inadmissibility. For example, if you are filing to maintain status, you must return to your country of origin to seek visa issuance. In addition, if you have overstayed your admission period for more than 180 days after April 1, 1997, you will not be able to obtain visa issuance for three years unless you obtain a non-immigrant waiver. If you have overstayed for one year following April 1, 1997, you will not be able to obtain visa issuance for ten years unless you also obtain a non-immigrant waiver.

DS-160 Filing Tips

To access Form DS-160, which can also be accessed from each consulate's website, go to <https://ceac.state.gov/genniv/>.

To complete Form DS-160, you need your passport number, city where you will apply for a U.S. visa, birth year, a security question and your name as it appears in your passport. You will need to record an “application ID” allowing you to re-access the completed form online. It is a good idea to save your application as a PDF, which can be done before you exit the program.

Obtaining an I-94

As of April 27, 2013, paper I-94 cards are no longer issued to foreign nationals entering by air or sea other than asylees, refugees and parolees. Instead, non-immigrants will receive a date, class and duration of admission stamp in their passports, together with a copy of instructions to print out the I-94 from <https://i94.cbp.dhs.gov/I94/#/home>. Upon entry to the United States in non-immigrant status, you should print this I-94 and maintain a copy with your passport and ID documents. You will need this printout to apply for a Social Security card, driver's license and other state and federal government benefits.

If your passport expires prior to the expiration of your NIV approval notice, the expiration date on your I-94 may reflect your passport expiration date. Remember that the I-94 gives you the right to be in the United States. Remaining in the U.S. past the period specified on your I-94 can result in future problems when applying for an immigration benefit or admission to the United States.

Social Security Number

Following admission to the United States in work-authorized status, application for a Social Security number (“SSN”) is made by appearing in person at a U.S. Social Security Administration (“SSA”) office. Please note that the SSA recommends that you do not apply for a SSN for ten calendar days after admission to the United States. For more information regarding this process, contact your local SSA office, call 800-772- 1213, or visit <http://www.ssa.gov/ssnumber/>.

Other Issues Relevant to NIV Holders

To maintain status in the United States, you must remain employed with the employer that sponsored your petition. When you travel outside the United States, you may be required to provide proof of continued employment in order to re-enter the United States. A new USCIS petition is required to change employers and, in some cases, to change worksites.

If you plan to renew your non-immigrant status, remember to begin the process well in advance of the expiration of your authorized stay. If you plan to seek permanent resident status, you should know that the process can require several years. Educate yourself about the process and plan ahead to avoid a gap in your legal status in the United States.

To comply with the U.S. registration requirement, all non-citizens must file Form AR-11 to reflect a change of residential address. Form AR-11 must be filed within ten days of a move. To file the AR-11 electronically, you may visit <https://egov.uscis.gov/coa/displayCOAForm.do>.

© Copyright 2013 - 2025 Miller Mayer LLP. All Rights Reserved.

Source URL: <https://natlawreview.com/article/non-immigrant-visa-petition-approval-travel-and-visa-issuance>