

# CUEVAS, ORTIZ & CUBAS P.A.

## ATTORNEYS AT LAW

RE: E-2 Visa

The E-2 category is useful for business owners, managers, and employees who need to remain in the United States for extended periods of time in order to oversee or work in an enterprise that represents a major investment in the United States. The E nonimmigrant category is available only if a “treaty of commerce and navigation” or a “bilateral investment treaty” is in existence between the United States and the foreign country. At least 50% ownership of the investing enterprise must be held by nationals of the foreign country with the bilateral investment treaty. The person for whom treaty-investor status is sought must fill a key role with the company, either as the investor who will develop and direct the investment, or as a qualified manager or specially trained and highly qualified employee necessary for the development of the investment. Foreign citizenship must be held by each employee or principal of the company who seeks E status under the treaty.

The following are the special requirements for the E-2 Visa:

- The investor must make an irrevocable commitment of funds that represents an actual, active investment. This means the money invested must be used to produce a real service or merchandise. For example, investing in a lot would not be considered active investment; however, if the investment would be accompanied by plan development offers with the authorities and construction contracts, it would be active. The USCIS and the Department of State allow the use of a trustee’s account to protect the petitioner incase the visa is denied, however other evidence showing the investment will be active must be presented. The investor must manage the company and manage an interest rate in the company. **(It is recommended that the investment have occurred prior to the submission of the application)**
- The investment must be substantial. “Substantial” is not defined by any dollar amount, both the USCIS and the Department of State use one of two tests to observe that the requirements are met. They require the amount invested be proportional to the total value of the business or the amount typically needed to establish a viable business in that market. The law does not establish a minimum investment, but we always suggest investments of at least \$80, 000-\$100,000 to build a strong case.

The following countries have ratified investment treaties with the United States and their nationals may apply for the E-2 status:

Albania, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahrain, Bangladesh, Belgium, Bolivia, Bosnia & Herzegovina, Bulgaria, Cameroon, Canada, Chile, China (Taiwan), Colombia, Congo,

Costa Rica, Croatia, Czech Republic, Denmark, Ecuador, Egypt, Estonia, Ethiopia, Finland, France, Georgia, Germany, Grenada, Honduras, Iran, Ireland, Italy, Jamaica, Japan, Jordan, Kazakhstan, Korea (South), Kyrgyzstan, Latvia, Liberia, Lithuania, Luxembourg, Macedonia, Mexico, Moldova, Mongolia, Morocco, Netherlands, Norway, Oman, Pakistan, Panama, Paraguay, Philippines, Poland, Romania, Senegal, Serbia and Montenegro, Singapore, Slovakia, Slovenia, Spain, Sri Lanka, Suriname, Sweden, Switzerland, Thailand, Togo, Trinidad & Tobago, Tunisia, Turkey, Ukraine, Uruguay, United Kingdom, Yugoslavia.

The following is the list of documents and information that we will need to obtain the visa:

### **EXPLANATION OF THE U.S. BUSINESS**

- Business plan explaining the basic plans for the company, expansion plans, and any new project that the company may become involved in, number of employees and annual projected income.
- The establishment of the company.
- All the shares issued.
- Business Address.
- Occupation Permit
- Federal Identification number of the company.
- Bank account
- Photos of assets and of the business.
- Names and relationships of accompanying family members: Provide passports, birth certificates, marriage certificates, divorce certificates ( if any) of each person.
- The position and a detailed description of the petitioner's duties and the salary of the position.

If the U.S. business has a history of movement, or if the application is for the extension of the E-2 Visa, then other documentation must be included:

- If different from the initial case, the articles of incorporation or organization, and company regulations ( Mercantile Registry or Corporation contracts)
- Bank statement of the last twelve months ( or the most recent)
- All tax declarations or extensions, if not presented.
- Telephone bills and the telephone directory posting.
- Receipts, purchase orders, important correspondence and or contracts as evidence of the business activity (plenty of documentation in this area).
- U.S. Company payroll.
- All other documentation generated by the U.S. company.
- The trimester income declaration of the employer (Form 941 & UCT-6) of the last 4 trimesters.
- List of the duties of all employees of the U.S. company.
- The Financial Statements (General Balance and Profit and Loss Statements).

- Personal Income Statements from the country of origin.
- Bank Account Statements.
- Registered Asset Sales showing origin of savings.
- Personal Financial Statement.
- Foreign Company documents showing investment and participation,
- Proof of money entering the U.S. (bank transfers or customs declarations)
- Other evidence of the investments origin, including savings, payments, etc.

### **PROOF OF INVESTMENT**

- Paid checks
- Signed contracts
- Bank accounts showing paid checks or money wires.
- Purchase registration
- Investigation documents
- Correspondence relating to investment and the business
- If it's a franchise, franchise contract
- Brochures (advertisement)
- If the purchase (contract) has been structured as a conditional investment with the approval of the visa, the escrow agreement, with deposits in the name of the trustee, proof of trustee control, and proof of business/asset title being purchased.
- Engineering reports (USCIS) if buying commercial property.
- Other documentation showing various forms of investment, i.e. cash, equipment purchases, inventory, or other capital assets.
- Photos of the business.

I hope that the previous list is of help. As I previously mentioned, this letter is solely a general introduction of the E-2 Visa and the listed requirements in this letter may vary depending on the circumstances.

*Note: It is very important that you inform the Attorney at the time of the interview if you or any other member of your family has a record, such as having been detained, arrested or if they have been involved in any other encounter with United States authorities.*

If you have any questions regarding this matter, please contact my office.

Sincerely,  
CUEVAS, ORTIZ, & CUBAS, P.A.

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