

TN VISA EXPERT™

TN Visa Application Kit

2011 Version 1

TN VISA EXPERT™

Application Kit

TN Visa Expert™
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San Diego, California

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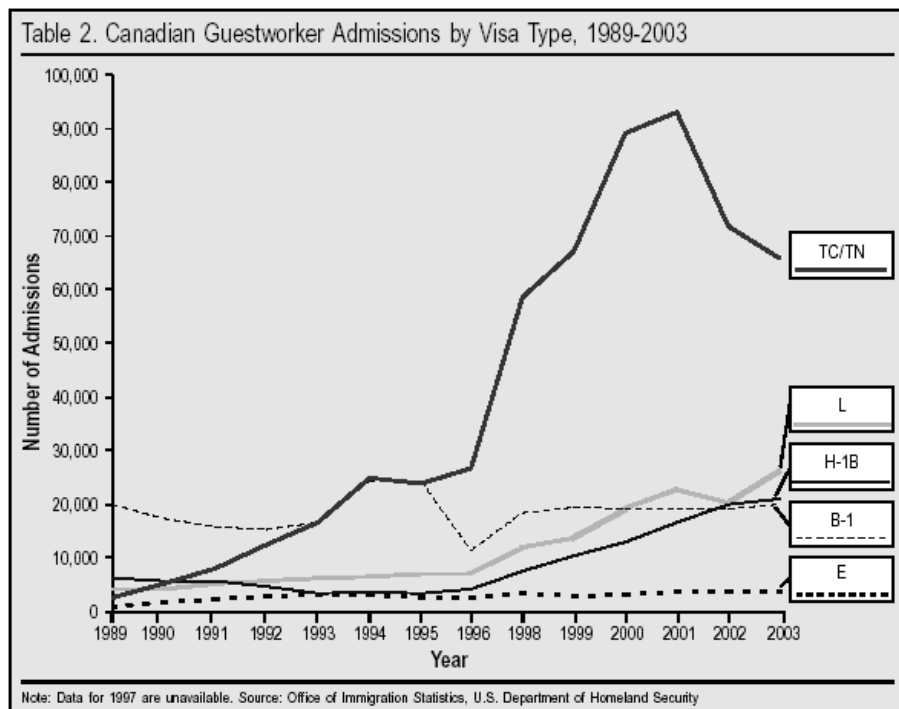
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The TN Visa Explained

TN Visa Overview

The North American Free Trade Agreement (NAFTA) enables Canadian citizens to temporarily live in the United States if they are to perform business activities on a professional level. This authorization is called a Treaty NAFTA visa or TN Visa for short. Technically, this authorization for Canadian citizens is called a TN-1 Visa, as similar authorization to work/live in the United States can also be obtained by Mexican citizens (under the TN-2 Visa). As shown in the chart below, TN Visas (called TC Visas prior to 1994) have become the dominant temporary visa for Canadian citizens working in the United States over the past decade.



Other Visa Types for Canadian Citizens

Basically, there are four other typical types of visas (and associated dependant visas) that are applicable to Canadian citizens that wish to work in the United States:

1. H-1B Visas: Applicable to professional level applicants similar to those in TN visa. A BA/BS degree is a minimum requirement for this visa.
2. E-1 / E-2 Visas: Applicable to investors and business owners who invest in or own new or existing U.S. businesses.
3. L-1 visas: Applicable to multi-national company employees who are intra-company transferees, moving to work at branches/offices located within the United States.
4. B-1 Visas: Applicable to visitors conducting business under NAFTA regulations for a period of 6 months or less. Such business visitors cannot be paid in the U.S.

More details about each of these visa types can be found in section 2-5 of this Expert Kit.

TN Visas compared to H1-B Visas

TN Visa Benefits

Similar to an H1-B Visa, TN Visas are focused on enabling professional/high-skill foreign citizens to work in the United States. However, the massive popularity of the TN Visa as an H1-B alternative is due to the following benefits:

1. TN Visas Can Be Obtained More Quickly. A TN Visa is applied for in person at the U.S. Border or U.S. Port of Entry, whereas an H-1B Visa must be applied for by the hiring U.S. employer, and done so by them sending application information in the mail to a USCIS (US Citizenship and Immigration Service) service center. The time to obtain a visa through this process can take at least a few months, which often is not an option for a hiring employer or the Canadian citizen who has just received a U.S.-based job offer. The time that it takes to obtain an H-1B can be 15 days or less under the premium processing program, but it is still longer than applying for a TN at the border, and an additional fee of \$1,000 is charged for this service.
 2. There is No Annual Cap on TN-1 Visas. Currently, there is no limitation on the number of TN-1 Visas that the U.S. government will issue every year. On the other hand, only 65,000 H-1B Visas are authorized per fiscal year in the United States (October 1st – September 30th), and citizens from several other countries besides Canada can apply for these. In recent years, people who apply for H-1Bs any time after about January run the risk of not being admitted due to the annual limit being reached. In 2004 the cap was reached on October 1st, the very first day that H-1B Visas were offered for this fiscal year!
 3. TN Visas Can Be Renewed Indefinitely. Although the nature of TN Visas are as temporary work permits and they are only applicable for 1 calendar year, they may be
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renewed annually for an indefinite number of years. The H-1B, however, is good for three years, but may only be renewed once, resulting in only 6 years of work authorization.

4. TN Visas May Be More Appropriate for Specific Job Functions. Even though H-1Bs and TN Visas are largely intended to apply to the same types of high-skilled workers, job titles/requirements do vary slightly between the two visa types, and many applicants find that the TN-1 is more applicable to their specific situation. Moreover, an H-1B employer must prove that the position requires a BA/BSC degree at a minimum. Such requirement does not exist for a TN Visa.
5. There is No Prevailing Wage Requirement for TN Visas. On the other hand, when applying for an H-1B Visa, a prevailing wage determination must be obtained from the Department of Labor. This means that the employer must pay market-level compensation to the employee, and get this validated by the U.S. government; otherwise, the case cannot be approved. If the prevailing wage is too high and the employer is not willing to pay a salary/pay rate that the U.S. government determines to be acceptable, the applicant will not get his/her H-1B Visa. There is no such restriction for the TN Visa.

Furthermore, the TN Visa provides one additional very strong benefit to those who have already been working in the United States on an H-1B Visa: A TN visa can be obtained by a person who has held H-1B status for the maximum allotted six years without fulfilling the requirement of spending one year outside of the U.S., a requirement that must be complied with before obtaining any other type of nonimmigrant work visa.

TN Visa Drawbacks

Along with the positives, TN Visas also so have their own share of drawbacks, when compared to H-1B visas. Those include:

1. Unlike H-1B Visas, the TN Visa is Not a “Dual Intent” Visa. A person on an H-1B visa may later pursue permanent residency in the United States without having their H-1B visa revoked; however, if a person on a TN visa would try to apply for permanent residency in the United States, the U.S. government would likely revoke that person’s TN visa status because they no longer have temporary residency intent. In this case, the TN Visa holder would first have to obtain a different visa type (such as an H-1B), and then when on that status, he/she would be able to apply for permanent residency.
 2. Professional/Industry Experience Cannot Be Substituted for the Degree Requirement. To obtain an H-1B visa, a bachelor’s degree is not required if the applicant can demonstrate a specified level of job/industry experience. In applying for a TN Visa, a bachelor’s degree is required for most of the professions.
 3. Possible Denials Due to Strikes and Work Stoppages. Unlike an H-1B application, a TN Visa can be denied at the time of application if the U.S. Department of Labor identifies that there is a strike or other work stoppage (at your company, or within the
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industry) whereby U.S. citizens stand to lose jobs due to the availability of TN visa holders in that profession.

Ace the Interview: Selling Points of a TN Visa to a Potential Employer

(complete TN Visa information available in the TN Visa Application Kit)

