



**HAWKS VILAFRANCA LAW**  
U.S. IMMIGRATION

# E-2 INVESTOR VISA GUIDE

**HOW TO LIVE AND WORK  
IN THE U.S. WITHOUT  
SPENDING A MILLION  
DOLLARS**



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# E-2 Investor Visa

*The E-2 Investor Visa is available for any type of business, has no minimum investment amount, and can be renewed indefinitely. This highly flexible visa option provides an amazing opportunity to many people, including individuals and families looking to live and work in the U.S. who don't have other immigration options through family or employment.*

*But making the decision to leave your home and move to a new country isn't easy. Even when you move towards opportunity, it's not just about paperwork, plane rides, and real estate agents; it's the friends and family you'll miss, how you'll find the right school for your kids, and how to become part of your new community.*

*While you're managing all of that, you're also worried about whether navigating the complex U.S. immigration process is the right move for you and your family, and which option of the many visas available will best move you towards your goals.*



# E-2 Investor Visa

*That's why we've created the ultimate guide to applying for an E-2 investor visa. We'll walk you through the process and explain everything along the way. From how to qualify for the E-2 visa, to how much money you need to invest, and how long this process may take - it's all in this guide.*

*Before we get started, we'd like to introduce you to Pablo. Pablo wants to move his family and his business to the U.S., and we're going to help him do that with an E-2 investor visa.*

*Pablo lives in Mexico City with his wife, Paola, and their two kids, Diego and Sara. Pablo and Paola are driven and successful and both have careers they are proud of - Pablo as an executive at a national construction company and Paola as a chef in one of Mexico City's most popular restaurants. They both love their careers and don't want to have to put them on hold when they move to the U.S.*

*Pablo and Paola are overwhelmingly proud of their kids and they will do anything to make sure they have a safe home and a good education so they can achieve their dreams. Their oldest child, Diego, is 8. He loves soccer and reads several grade levels ahead of his age. His little sister Sara is 6. She is the scientist of the family and has recently developed an interest in painting.*

# E-2 Investor Visa

*Pablo feels anxious and often has trouble sleeping because safety and security are getting worse near his home in Mexico City, and he needs to get his family out of there. He knows they could have the safety and opportunity they need in the U.S., but Pablo doesn't have a family member or employer ready and willing to sponsor them for U.S. visas.*

*Pablo has spent months searching for options to move to the U.S., but he doesn't understand what options he qualifies for or what to do next. All he knows for sure is that he needs to take matters into his own hands and find a way to make this move happen for himself and his family. We're going to show him how the opportunity, safety, and peace of mind he craves for his family is possible with an E-2 investor visa.*



# DO I QUALIFY?



You may qualify for an E-2 visa if you run a U.S.-based business that is or will soon be profitable. There are any number of ways to get to an E-2 Investor Visa approval, but what immigration cares about most is that you have a real and operating U.S. business that will have a positive impact on the economic well-being of the U.S. community where your business operates.

This all sounds great to Pablo, who feels confident he can open and run a successful business in the U.S. since he is driven and tends to succeed at anything he puts his mind on. But he wants more details and has a ton of questions, because this is a really big move for his family.

To start, let's review each of the requirements for getting an E-2 Investor Visa. You, like Pablo, may qualify for an E-2 Investor Visa if you...

- Are a citizen of a country that has an investor treaty with the U.S. - Many countries have E visa treaties with the United States, including Mexico, Spain, and the U.K., as well as many other countries.
- Own at least 50% of a U.S.-based business - Almost any kind of business will work to support your E-2 investor visa, as long as you own a majority of the company. Even if you don't, you may be able to apply as an E-2 executive!
- Have the right to control and direct your U.S.-based business - This usually means you are a manager or executive at a very high level in the business
- Invest a considerable amount of money in the business - There is no minimum investment amount, which is what makes the E-2 visa so accessible for many families. You just need to invest enough for your particular business to launch and run successfully.
- Have already spent of commitment the investment funds - This means you've already spent the money or have binding contracts to spend the money on your investment.

# DO I QUALIFY?

- Have an active business or have taken substantial steps towards opening - It's ok if you haven't opened business operations to the public yet, as long as you'll do so soon after getting your E-2 visa.
- Can prove you got your investment funds legally - anything counts as long as it's legal - earned income, gifts, loans, even gambling winnings!
- Have a 5-year business plan for profitability - The U.S. government wants to support E-2 businesses that will have a positive impact on the U.S. economy. Your 5-year business plan is your road map for making that happen through employment, use of contracted labor, professional services, or other similar spending.

Pablo is intrigued! He didn't know that E-2 visas were so accessible and flexible, but he's also seen this info before on his many late-night Google searches and doesn't fully understand what it means and if it can help him. So on the next few pages you'll find a few of Pablo's most pressing questions, with answers that will help him understand more about the E-2 visa and how it will help his family.





# HOW LONG IS MY E-2 VISA VALID?

Pablo is a cautious and careful planner and he's not willing to risk his family's money and time if he can't stay in the U.S. more than a year or two. Good news for Pablo! E visas can be valid for an initial period of up to 5 years and are renewable indefinitely.

The E visas are established by treaties between the United States and foreign governments to encourage international investment, trade, and commerce to benefit both countries. You can find a full list of treaty countries on the State Department website. The treaty between the U.S. and your home country will govern the validity period of your E visa. Some countries have treaties for a one-year visa, while other treaties permit 5-year visas. Your attorney can help you understand the validity period for your home country and evaluate your options for a successful visa application in your home country.

Regardless of your home country or the length of your initial E-2 visa, you can

renew your visa indefinitely as long as the treaty remains in place and you maintain your E-2 visa eligibility.

Treaties are renegotiated from time to time and these negotiations can change the E-visa period for your country. Pablo, being the planner that he is, did some research and learned that in 2020 the treaty between the U.S. and Mexico was renegotiated and the E visa validity for Mexican nationals increased dramatically, from 1 year to 4 years, giving Mexican investors a much more flexible visa option.

This is a huge realization and changes everything for Pablo, because now the risk that didn't seem worth it for a 1-year visa is suddenly much more worthwhile for a 4-year visa. The night he found out about the change he and Paola stayed up late talking about the opportunity that is now available to their family. They've been looking for the right business opportunity ever since and are ready to make a move.





# DOES MY BUSINESS QUALIFY?



Almost any kind of business can qualify for an E-2 Investor Visa as long as it is a real and operating, that is, an active commercial or entrepreneurial undertaking. You don't need to start a brand new business to get an E-2 Investor Visa. While E-2 Investor Visas are available for new business, you can also qualify for an E-2 Investor Visa by buying an existing business or opening a franchise.

While most U.S.-based business will qualify, some don't. An organization that only exists in paper or that is speculative and not operational does not qualify. Likewise, if the business is passive and doesn't offer a good or service it can't qualify for an E-2 visa. This is because the U.S. government supports business for E-2 visas that give back to the U.S. economy. A company that passively owns real estate would not qualify.

For qualifying businesses, E-2 visas are available for both owners and employees. To qualify for an E-2 visa as an investor and owner, you generally need to own at least 50% of your U.S.-based company and have the right to control and direct the business.

To qualify for an E-2 visa as an employee, you must have the same nationality as the majority owners of the company and serve in either an executive/management capacity or have skills that are essential to the success of the business.

Pablo and Paola spent a long time thinking about what kind of U.S. business Pablo should open. They knew they wanted to move to Texas, since they have spent a lot of time in The Woodlands, just north of Houston, where they own a home and spend their summers. He contemplated trying to open his own construction business in Texas, but it seemed a bit daunting since he had never

# DOES MY BUSINESS QUALIFY?

opened a business in the U.S. before. They decided a franchise focused on the construction industry would be a good fit for Pablo's experience and would provide the guidance and support to help Pablo feel confident opening their first U.S.-based businesses.

Pablo spent months searching different franchise options and found many of them lacking a clear plan for profitability. Franchises are amazing vehicles for an E-2 visa, but many of them are not financially stable. Finding a good one can be a lot of work.

After much searching, Pablo located a custom flooring company that is ranked among the top franchise opportunities in the U.S. and which had a location for sale in The Woodlands, right near where he already owns a home. He worked with a franchise consultant to analyze the business and confirm that it was in fact a great business model. He checked with his immigration attorney who told him that the business would be fantastic for his E-2 visa since he would employ local workers, use contracted labor, and has a clear plan for growing the franchise into a profitable company.

Pablo was thrilled with this good news. He bought the business a few months ago and is busy setting up the business. He will be opening to the public as soon as his visa is approved.



# HOW MUCH MONEY DO I NEED TO INVEST?

The investment amount needed for an E-2 is much smaller than you might imagine, which makes the E-2 Investor Visa a great opportunity for individuals and families who want to live and work in the U.S., but who don't have a family member or business to sponsor their application.

You don't need a million dollars to get an E-2 investor visa and, in fact, there is NO minimum investment amount required.

To get an E-2 visa you have to invest as much money as is needed to properly run your business. The minimum investment amount depends on the type of business you own and run. If you're opening a flower shop, \$50,000 may be more than

sufficient to properly open and operate your new business. If you are opening a car manufacturing plant, you'll likely need quite a bit more to properly get the business going.

Pablo invested \$95,000 to open his business and cover the first months of operation. This investment amount included the incorporation of his company, a Texas LLC, the purchase price for the franchise, and all his initial inventory. This investment proved to be more than enough to start and operate his company, and because he purchased a franchise he had a clear business plan and business model he could show to immigration, making his approval quick and uncomplicated.



# DO I HAVE TO SPEND MONEY BEFORE MY VISA IS GRANTED?



Yes. You have to spend a “substantial” amount of money before you can receive an E-2 visa. While there is no set amount of money you must spend, you have to spend enough for your business to open and operate, and you have to actually spend that money or have contracts that require you to spend the money quite soon.

You are required to invest money in your U.S.-based business before being approved for an E-2 visa. Speculative or planned investment is not enough. Money held in a U.S.-based bank account is not sufficient to show that you have already invested in a U.S.-based business.

The U.S. government wants to see that you, the E-2 investor, have actually put

your money “at-risk” by spending money on goods, services, equipment, leases, or other similar business items. Your E-2 application will include proof that you have spent this money, in the form of receipt, contracts, invoices, and other similar business documentation.

When Pablo’s visa application was filed, he had spent \$75,000 and had \$20,000 in his business bank account to cover contractually obligated payments to the franchisor. That contract was submitted with his E-2 visa application to show he was required to pay that money in the 3 months following his visa approval for things like web hosting, a grand opening marketing package, and a vehicle lease for the business.

# WHAT KIND OF INVESTMENT FUNDS CAN I USE?

The U.S. government wants to know that the money you use to invest in your U.S. business was acquired lawfully. There are many acceptable ways to acquire lawful funds, but regardless of how you get your money, the U.S. government will expect you to provide proof.

You can acquire your investment funds in any number of lawful ways, such as through earned income, profit from ownership in businesses in the U.S. or abroad, as a gift from family and friends, or the sale of real estate. You can even use lawfully acquired lottery winnings.

You can use money acquired through a loan as your investment money for E-2 purposes, as long as the loan is personally guaranteed by you. You may not qualify for an E-2 visa based on funds from a loan that uses the U.S.-based business as

collateral, since that money is not considered “at risk” because the E-2 investor will not be negatively impacted if the business does not succeed.

Your investment funds will qualify you for an E-2 visa as long as 1) your money was acquired lawfully, and 2) is not a loan against the U.S.-based business, and 3) you have documents to prove how you got the money.

Pablo's money came from a few different places. About half of his investment money came from his own income that he was able to save over the last 10 years. His wife also gave him about \$20,000 out of her personal savings. The rest was inherited from his father who passed away about 5 years ago and left each of his kids USD 30,000 to spend at their discretion. Pablo knows his Dad would be really proud of him for opening his new business in the U.S.



# DOES MY BUSINESS HAVE TO BE PROFITABLE WHEN I APPLY?



No! New businesses are often not profitable, and you do not have to show that your business is profitable at the time you apply for your E-2 visa. You do, however, have to show that you have a 5-year plan to ensure profitability. Most consulates will expect to see a 5-year business plan that has clear projections for when the company will be profitable and how that profit will be maintained or increased year over year.

The U.S. government is interested in approving E-2 companies that will make a positive impact on the U.S. economy. You must be prepared to show that your business will not just operate to provide a salary and living expenses for you and your family, but will instead be a viable company with profits well above that needed to support you and your family, and that your business will have a positive impact on the U.S. economy.

An immigration-focused business plan is essential for the success of your E-2 visa. It looks very different from the business plans you may be used to, as it is designed to highlight the things that immigration cares most about. To ensure success for your E-2 visa you should be prepared to discuss your plans for employing U.S. workers or contractors, when and how you'll become profitable, and any other positive impacts your business will have on the U.S. economy.

Pablo is very grateful that he purchased a franchise because the franchisor provided him with information about his business model, the historic profitability of franchises, and a plan for marketing and operations to ensure profitability. He was able to give this info to his immigration attorney and business consultant to draft a compelling 5-year business plan that helped get his E-2 visa approved.



# CAN MY FAMILY LIVE AND WORK IN THE US ON MY E VISA?

Yes! The E-2 is a fantastic option for families with two spouses who both want to continue their careers while their family is in the U.S. The E-2 investor will be authorized to live and work in the U.S., but may only work in the E-2 business. The E-2 spouse will receive an unrestricted work permit which means that he or she may work for any U.S. employer.

Kids on an E-2 visa may not work in the U.S. but may attend any public, charter, or private school. This is an extremely useful benefit for families who want their kids to attend school in the U.S. since this is not permitted for kids who are in the U.S. on a B-2 visitor visa status.

Pablo and his family moved to Texas about three weeks after their visas were approved. Pablo has been really busy

getting ready to open his franchise, and Paola found her skills were in high demand. She had a few job offers to choose from, and she now works as the head chef in a restaurant in The Woodlands focused on high-end Mexican cuisine. She is thinking about opening her own restaurant, but decided to wait until the kids felt more settled.

Diego and Sara are super excited about their new school. Sara is part of the science club and talks non-stop about her experiments (and sometimes makes a giant mess trying to recreate them at home!). Diego joined a soccer club and already has tons of new friends who he invites over to the house after practice. Pablo and Paola love that they can take long walks around the neighborhood with the kids after dinner, and they don't feel worried about violence or getting home before dark.



# HOW DO I APPLY?



For most investors and their families, the best option will be to apply for your E-2 visa at the U.S. Consulate or Embassy in your home country. You can also apply for an E-2 visa from the United States, but we do not generally recommend this option as it is riskier, more expensive, and more time-consuming for you and your family.

First, your immigration attorney will put together a strong E-2 visa application and will submit it directly to the U.S. Consulate or Embassy where it will be decided. Not every U.S. Consulate and Embassy processes E-2 visas, and your attorney will help you understand where your case will be processed so you can make work and travel arrangements that may be needed.

Next, you will attend a biometrics appointment in your home country where you will have your fingerprints and photo taken. Once that appointment is complete, you will be scheduled for your E-2 visa interview.

When you attend your E-2 visa interview, a U.S. Consular Officer will ask you questions about your personal history, your U.S.-based company, and your plans

for ensuring your company is profitable. You will usually get a decision on your application during that interview.

Pablo was extremely nervous about his interview. When he arrived he had to wait in a long line outside which didn't help his nerves at all. He checked in and waited for his name to be called for about half an hour, but it felt like an eternity! He was so relieved when the Consular Official was chatty and kind. He asked a few questions about Pablo's company, which Pablo could easily answer because he'd practiced these same questions with his immigration attorney and she told him just what to say. After ten minutes of questions, the Consular Officer told him his case was approved and sent Paola to the other room to pay for the visa fee while Pablo packed up his paperwork.

They were so excited when they left the Embassy that they couldn't remember where they parked the car! They found it eventually and went to meet Paola's mom, who had been watching the kids. They decided to celebrate with lunch at Diego's favorite restaurant since his birthday was the next month and they might already be in the U.S. by then!

# DO I HAVE TO STAY IN THE U.S. WHILE I HAVE AN E-2 VISA?

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No. Your E-2 visa is a multiple entry document and there is no residency requirement attached to your visa.

The E-2 visa is extremely flexible and allows you to establish the residency needs that work best for you, your family, and your business. You are not required to maintain residency in the U.S. or spend a certain amount of time either inside or outside the country while in E-2 visa status.

Once approved, your E-2 visa will be printed in your passport and you will use that E-2 visa to enter the United States and begin your work on your E-2 business. Your E-2 visa allows you to enter and exit the United States as many times as you would like as long as your visa is valid. Do remember to keep your passport up to

date, and don't let that expiration date creep up on you because when you enter the country you can't get a period of stay longer than your current passport expiration.

Pablo and Paola are relieved that they can come and go on their own schedule. Paola's mom got sick about 6 months after the family moved to Texas, and Paola was able to take a month off of work to go back to Mexico City and take care of her. She's doing well now, and has visited the family in The Woodlands for the Christmas holidays. From time to time Pablo returns to Mexico City to check on his businesses. He owns a portion of several different companies, and he's glad he's able to travel back to oversee the business whenever he needs to.



# HOW LONG DOES IT TAKE TO GET AN APPROVAL?



Each country processes E-2 visas in a slightly different way, and each Consulate and Embassy has their own unique processing times for E-2 visas. Some Consulates will schedule you for an interview within a week of receiving your E-2 visa application. In other locations, you may have to wait 6 months or more before attending your interview.

Typical processing times have been drastically altered by COVID closures. While some consulates are processing E-2 visas normally, others are processing slowly, and still others are not processing at all. Before proceeding with an E-2 visa case, it's important to speak with your immigration attorney to understand the current situation in your home country and what to expect in terms of processing times for E-2 cases like yours.

Pablo submitted his application to the Embassy in Mexico City in January. While they normally schedule interviews in 2-4 weeks, they let his attorney know that they were a bit behind due to closures caused by the COVID situation in Mexico City. In March, about 7 weeks after his application was submitted, he got an interview. The notice came just a week before his interview, so he felt both excited and a bit overwhelmed by how fast things were moving. He has been thinking about this opportunity for so long, and it was hard to believe that he was about to make his dream of moving his family to the U.S. a reality.

# HOW DO I START MY CASE?



The first step to any successful immigration case is to find an attorney you trust to represent you, your family, and your business. Starting the immigration process can feel daunting and confusing and you should work with an attorney who has a deep understanding of the complex U.S. immigration system and is responsive to your particular needs and goals for your case.

If you're ready to discuss options for your case, give us a call at 512-675-2945 or [click here](#) to schedule a 20-minute intro call with the attorney. During this intro call, you will meet our managing attorney, Kalani Hawks Villafranca, get a better feel for our office, understand more about our client service model, and get a brief overview of the options that may be available for your case.

If you decide that our firm is the right fit for your case, the next step is to schedule your strategy session with the attorney. During this hour-long meeting, you'll discuss goals, options, risks, and timelines for your case, and work with Kalani to establish a plan for you and your family that fits with your unique goals for your future in the U.S.

You'll leave this strategy session with the next-steps for starting your case with our law firm. We pride ourselves on exceptional client service and quick case filing and are ready to start your case the moment you hire us.

When Pablo scheduled his intro call with Kalani he didn't know what to expect. He had met with a lot of attorneys and hadn't yet found anyone he trusted with his life and his family. When they met, Pablo felt relieved as Kalani listened to his goals for his family and shared some ideas for how to make those a reality. He talked it over with Paola and they decided the firm seemed to understand their needs and their family.

A week later Pablo scheduled an hour-long case strategy session with the firm. During that session, Pablo and Kalani talked in detail about his background, his business, and his goals for the future. Together they put together a plan for success, and the firm started working on that plan the moment Pablo hired them. The plan worked just as expected and less than 6 months after that first intro phone call, the family has started their new life in Texas and they see so much peace and opportunity ahead of them.

# About Hawks Villafranca Law - U.S. Immigration Firm



At Hawks Villafranca Law, we practice exclusively U.S. immigration, which means we are always aware of the current changes and challenges in this complex area of law. Everyone at Hawks Villafranca Law is bilingual in Spanish and English and we will work with you in whichever language you prefer.

Our managing attorney, Kalani Hawks Villafranca, has over a decade of experience and a proven track record of success backed up by hundreds of satisfied clients. She started her career practicing law in the New York office of a prestigious international law firm, later directed major operations for U.S. government institutions, and most recently served for several years as the managing attorney for a state-wide immigration legal services coalition in Texas. Kalani has appeared regularly on Univision and is a trusted partner of the Mexican Consulate in Austin. Most importantly, she truly cares about getting to know her clients and finding a solution that helps them achieve their goals in the United States.

It is our honor to guide you towards a solution to your immigration problem and in doing so provide stability, hope, and a sense of belonging that may currently be missing when you think about your plans and your future in the United States. At Hawks Villafranca Law, you will always receive the time and attention you deserve with your attorney, a thorough review and legal analysis of your case, and a clear answer about what your options are.

Pablo was so excited when his visa was approved and he immediately referred several of his friends and family members to the firm. He feels so lucky to have been able to move his family to the U.S. and he wants that same opportunity for his loved ones. Pablo felt that on top of getting exceptional legal representation, everyone at the firm truly cared about him and his family. He wants his friends and family to have that same experience so they can move to the U.S. and seize the opportunity for their business, their family, and their future.





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