

# IMMIGRATION LAW OFFICES OF RON KATIRAEI

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## TN VISA (North American Free Trade Agreement- NAFTA Professionals)

The North American Free Trade Agreement (NAFTA) created special economic and trade relationships for the United States, Canada and Mexico. The TN nonimmigrant classification permits qualified Canadian and Mexican citizens to seek temporary entry into the United States to engage in business activities at a professional level.

Among the types of professionals who are eligible to seek admission as TN nonimmigrants are accountants, engineers, lawyers, pharmacists, scientists, and teachers. You may be eligible for TN nonimmigrant status, if:

- You are a citizen of Canada or Mexico;
- Your profession qualifies under the regulations;
- The position in the United States requires a NAFTA professional;
- You have a prearranged full-time or part-time job with a U.S. employer (but not self-employment - see documentation required below); and
- You have the qualifications to practice in the profession in question.

### Eligibility

Unlike Mexican citizens, Canadian citizens are generally eligible for admission as nonimmigrants without a visa. The TN category, a nonimmigrant classification, simply reflects this general exemption from the visa requirement. NAFTA governs which evidence is required to prove whether a Canadian or Mexican citizen is a professional in a qualifying profession.

### Process

#### A) Canadians

If you are a Canadian citizen, then you are not required to apply for a TN visa at a U.S. consulate.

You may establish eligibility for TN classification at the time you seek admission to the United States by presenting required documentation to a U.S. Customs and Border Protection (CBP) officer at certain CBP-designated U.S. ports of entry or at a designated pre-clearance/pre-flight inspection station. You must provide the following documentation to the CBP officer:

- Proof of Canadian citizenship;
- Letter from your prospective employer detailing items such as the professional capacity in which you will work in the United States, the purpose of your employment, your length of stay, and your educational qualifications; and
- Credentials evaluation (if applicable), together with any applicable fees.

Alternatively, a prospective TN employer may choose to file on behalf of a Canadian citizen who is outside the United States by submitting Form I-129, Petition for Nonimmigrant Worker to USCIS. Premium Processing Service is available.

If USCIS approves Form I-129, you, the prospective worker, may then apply to CBP for admission to the United States as a TN nonimmigrant by providing the following documentation to a CBP Officer at certain CBP-designated U.S. ports of entry or at a designated pre-clearance/pre-flight inspection station:

- Proof of Canadian citizenship; and
- Approval Notice from USCIS for Form I-129.

#### **B) Mexicans**

If you are a Mexican citizen, then you are required to obtain a visa to enter the United States as a TN nonimmigrant. You should apply for a TN visa directly at a U.S. embassy or consulate in Mexico. Once you are approved for a TN visa, you may apply for admission at certain CBP-designated U.S. ports of entry or at a designated pre-clearance/pre-flight inspection station.

#### **Period of Stay**

Period of stay is up to 3 years, however if you wish to remain in the United States beyond your initial period of stay without first departing from the United States, you must seek an extension of stay. If you are in the United States, your employer may file Form I-129 on your behalf.

#### **Dependents of TN Nonimmigrants**

Any accompanying or "following to join" spouse and children under the age of 21 may be eligible for TD nonimmigrant status. Spouses and children are:

- Not permitted to work while in the United States, but they are permitted to study.
- Granted TD status for no longer than the period of time granted to the principal TN nonimmigrant.