

# OUR PRACTICE

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## Tourists

The largest number of entries to the U.S. each year are by tourists. Most enter in the B-2 classification for "visitors for pleasure," which allows a limited range of activities. In order to enter the U.S. tourists use either a B-2 visa, a visa waiver, or a border crossing card. Whatever the procedure, nonimmigrant intent is a critical requirement. Changes to and from B-2 status are possible in some situations. Different arrangements exist for persons immediately and continuously traveling through the U.S. on a transportation line. We can help in several ways with these matters.

### B-2 Activities Allowed

The common thread for visitors, whatever the procedural mechanism, is the range of activities allowed. "Pleasure"; means "legitimate activities of a recreational character, including tourism, amusement, visits with friends or relatives, rest, medical treatment, and activities of a fraternal, social, or service nature." Work for pay is, of course, prohibited, although true volunteer work is apparently allowed.

Although the statute prohibits "study" in B-2, the government allows B-2 participation in a "short course of study" of less than 18 hours per visit, a "vocational or recreational" program, and identification of a school for transfer to F, M or J status. Other allowable B-2 activities include amateur entertainment or athletic activity, even if incidental expenses are reimbursed; naturalization proceedings for certain specially eligible people; urgent circumstances including medical treatment that is urgent or not available elsewhere. B-2 can even be used as a "holding" status during a temporary limitation on a more appropriate status (such as when H-1B cap has been reached).

Family members of citizens or permanent residents assigned temporarily or just visiting may use B-2 for the visit. A fiance coming to marry someone in the U.S. may use B-2 as long as the plan is clearly to return abroad after the marriage. Family members may use B-2 to accompany another nonimmigrant when a dependent classification does not exist, either because the principal alien is in D or Q (which have no dependent classification) or because the dependent is a relative other than a spouse or minor unmarried child (the only ones eligible for dependent classifications such as H-4 and F-2).

An applicant for B classification should present documentation of specific plans for the U.S. visit, indicating the nature and time frame of the intended activities and a clear date for return from the U.S. This may take the form of letters from persons or organizations in the U.S. who are inviting the visitor, itineraries for tourist or business activities (or both), and confirmation of travel arrangements. Any plans for study or other activities not obviously "tourist" should clearly be disclosed in a visa application or when seeking entry, and a visa annotation should be requested in some instances to avoid later findings of misrepresentation.

### B-2 Visas

The B-2 visa application involves the normal [visa application and entry process](#), including the key requirements of [nonimmigrant intent](#) (discussed on another page) and intent to engage in allowable B-2 activities.

### Visa Waivers

The B-2 classification, along with B-1 for business visitors, is the primary classification in which several [Visa Waiver Programs](#) are used.

Normally there can be no extensions of 90 day visa waiver stays. In an urgent case the immigration service ("USCIS") may be persuaded to allow up to 120 days of "administrative voluntary departure." USCIS may grant more than 120 days of "voluntary departure" to up to 300 aliens per year who entered on a visa waiver program and need extended medical treatment. A comprehensive statement from the doctor including the anticipated duration of treatment, plus proof of the alien's and family members' ability to pay for treatment and living expenses, is required.

### **Change To or From B-2 Status**

Persons who have entered in some nonimmigrant status other than tourist and are eligible for change of status may apply to USCIS to change to visitor status using [Form I-539](#). Someone who entered on a B-2 visa, a Canadian who entered without a visa as a visitor, and someone who has changed to B-2 status with the U.S., apply to change to some other nonimmigrant classification. Foreign nationals who enter under the visa waiver program, however, are not eligible to change their status except through an immediate relative petition for permanent residence or the LIFE Act.

### **Travel Stops in U.S.**

Aliens traveling via certain transportation lines through the U.S. without stopping for more than transfers generally may use a visa waiver called "Transit Without Visa" (TWOV). Nationals of certain countries that are ineligible for TWOV status must instead arrange to get a C-1 visa before beginning the travel. Neither TWOV nor C-1 status allows any extension or change of status, except that an eligible TWOV may apply for admission on the regular [Visa Waiver Program](#).

### **How We Can Help**

Baker Donelson's Immigration Group assists individuals and businesses determine whether the B-2 classification would be appropriate for a client's planned activities, determine which method of entering in B-2 status fits the client's goals most closely, and prepare documents and application for status or entry. We help people change to B status from other classifications, and from B status to other classifications. We help clients who come to us after having been denied a visa, denied entry or even removed from the U.S. We help clients who have entered as visitors determine the best step to take next to meet their goals in the United States, whether for becoming a student, working, or seeking permanent residence.

### **Important Links**

- [Coming to America — Getting Your Visitors Visa](#)
- [Business or Pleasure Visitors](#)
- [How Can I Invite Someone to Visit the U.S.?](#)