

OVERVIEW OF THE TN PROCESS FOR MEXICAN CITIZENS



MELTZER HELLRUNG
IMMIGRATION SOLUTIONS

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A treaty created special economic and trade relationships between 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. The TN classification is limited to professionals in certain occupations; a complete list of those occupations can be found here: tinyurl.com/NAFTA-occupations.

THE APPLICANT MAY BE ELIGIBLE FOR TN NONIMMIGRANT STATUS, IF:

- ⇒ The applicant is a citizen of Mexico;
- ⇒ The applicant's profession qualifies under the regulations;
- ⇒ The applicant has a prearranged full-time or part-time job with a U.S. employer; and
- ⇒ The applicant has the qualifications required by the appropriate TN category.
- ⇒ If the applicant is inside the United States a change of status petition can be filed with the U.S. Citizenship and Immigration Service.

If the applicant is a Mexican citizen, a visa is required to enter the United States as a TN nonimmigrant. We recommend applying for your TN visa directly at a U.S. embassy or consulate. If the applicant is inside the United States he/she can change status to TN classification through a petition to the U.S. Citizenship and Immigration Service (USCIS). The TN classification is valid for up to three years and can be renewed indefinitely. Due to the nature of the management consultant category, TN visas are typically approved for less than 3 years.

TN APPLICATION PROCESS

1 Employer opens a case with Meltzer Hellrung



IN ORDER TO GET STARTED, WE NEED THE FOLLOWING:

- ☐ Name of applicant
- ☐ Email address
- ☐ Job title and job description
- ☐ Offered salary
- ☐ Work location, including name of client if location is a third-party work site
- ☐ Resume
- ☐ Proposed start date

2 Meltzer Hellrung reaches out to the applicant to complete an online questionnaire and provide the required documentation



We will email the applicant with instructions to complete this step.

3 Meltzer Hellrung drafts all necessary forms and letters to file the TN petition



We will send these forms and letters to the employer for review. The employer may choose to share these draft documents with the employee.

4 When all forms and letters have been finalized and all required documents have been provided, Meltzer Hellrung will ship the completed petition to the applicant or to USCIS if the applicant is inside the U.S.



Option 1: USCIS Review

Should it be decided to apply through USCIS, an I-539 application will have to be filed on behalf of the applicant's dependents who are physically present in the U.S.

Option 2: Consular Review

We can also prepare TD applications for all dependent family members of the applicant. If the applicant decides to apply for their visas directly at the consulate, the documentation for their dependents can be included in their package.

5 Governmental Review of the TN petition



Option 1: USCIS Review

Generally, the USCIS takes several months to review TN petitions unless the employer chooses to add premium processing for an additional government filing fee which leads to adjudication within 15 calendar days. Once filed, USCIS may not immediately approve a petition. The USCIS may first issue a Request for Evidence (“RFE”) seeking additional information before issuing a final decision. Should an RFE be issued, the USCIS provides about three months to respond. We will send a list of documents to the appropriate party needed to respond to an RFE, should one be issued.

Option 2: Consular Review

Once the application is completed, we will ship the application to the applicant, who can then schedule an appointment at a U.S. consulate. The applicant will take the completed application to the consulate and apply for the visa. The interview at the consulate typically takes 5–7 minutes. If the visa is approved, the consulate will stamp the passport and return it to the applicant. It is imperative that the individual familiarize himself/herself with the petition before going to the consulate.

6 Post Filing Outcomes



Option 1: USCIS Approval

USCIS approves the TN petition and issues an I-797A, Notice of Action approval notice which will govern the applicant’s period of authorized. The applicant will be eligible to work for the sponsoring company for the validity period listed on the notice.

Option 2: Consular Approval

The officer will review the package prepared by Meltzer Hellrung and ask the applicant questions regarding the company, position, and the applicant’s qualification. Generally, the individual will be informed at the time of the interview whether the application has been approved. Once the application is approved, the embassy or consulate will produce a visa in the applicant’s passport, generally within 1–3 business days.

Option 2: 221 (g) or Administrative Processing

The officer may determine that the TN is not immediately approvable and may ask the employee for additional documentation or may simply place the application through additional review. This process can take lead up to an additional 60 days of processing time before an approval is issued.

Option 1: USCIS Denial

Upon review, USCIS may deny the TN petition and mail a notice to Meltzer Hellrung explaining the reason for denial. Once the Meltzer Hellrung attorney has reviewed the denial, we will advise regarding next steps.



Option 2: Consular Denial

The officer may determine that the TN visa is not clearly approvable due to the employee's response or the material in the application. The officer may not explain his/her decision. The applicant should request a written document for the denial and forward this documentation to Meltzer Hellrung. If during this time, the officer provides the applicant with an opportunity to withdraw the application, we recommend withdrawing the application. In the case of a denial, Meltzer Hellrung Attorney, the applicant, and the employer will have a phone call to discuss next steps.

7 Enter U.S. and Retrieve I-94 from Customs and Border Protection



Option 1: USCIS Review

Upon approval of the TN petition with USCIS, the applicant will automatically transition to TN status and may begin working for the employer upon receipt of the approval notice. If the applicant subsequently travels outside of the United States, he/she will need to apply for a TN visa stamp at a U.S. consulate or embassy abroad in order to re-enter the United States.

Option 2: Consular Review

Upon issuance of the visa, the applicant may proceed with entering the U.S. and beginning employment with your company. Once the applicant enters the United States, he or she may begin employment with the company. The applicant should immediately retrieve their I-94 record which governs the applicant's period of authorized stay. The I-94 record is issued electronically and can be found at tinyurl.com/record-I-94.

REQUIRED DOCUMENTS



Please note that we **do not** need originals of any documents for TN purposes. All documents should be scanned and uploaded to our online platform.

DOCUMENTS REQUIRED FROM EMPLOYERS:

- ☐ Power of Attorney to be signed by company representative (blank provided by Meltzer Hellrung)
- ☐ Recent financial documents, such as tax return, audited financial statement, SEC 10-k filing, or profit and loss statement
- ☐ Marketing materials describing the company
- ☐ Employment contract with applicant (if applicable)
- ☐ Statement of work or client contract if applicant will be placed at a client's work site
- ☐ Job Description
- ☐ Salary
- ☐ Work Location

DOCUMENTS REQUIRED FROM ALL APPLICANTS:

- ☐ Diploma(s)
- ☐ Transcripts
- ☐ Education evaluation by professional evaluator if degree(s) were earned at educational institutions outside the U.S., Canada, or Mexico. If you do not have one, Meltzer Hellrung LLC can help procure an appropriate evaluation if one is needed
- ☐ Translations of diploma(s) and transcripts if they are not in English
- ☐ Passport and current and prior visa stamps
- ☐ I-20 forms if applicant is/was a student in the United States
- ☐ EAD card(s) if applicant was ever issued an EAD
- ☐ I-797 approval notice if applicant previously had a visa application adjudicated by the USCIS
- ☐ DS-2019 if applicant was ever in J-1 status

DOCUMENTS REQUIRED FROM APPLICANTS CURRENTLY IN THE UNITED STATES:

- ☐ I-94 found at tinyurl.com/record-I-94
- ☐ Last two pay stubs if applicant is currently employed

REQUIRED DOCUMENTS (continued)



DOCUMENTS REQUIRED FROM APPLICANTS CURRENTLY IN THE UNITED STATES AS A DEPENDENT:

- ☐ Spouse's passport
- ☐ Spouse's I-94
- ☐ Spouse's I-797 approval notice(s)
- ☐ Spouse's last two pay stubs (if applicable)
- ☐ Marriage certificate
- ☐ Valid passports