

OVERVIEW OF THE TN PROCESS FOR CANADIAN 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 Canada;
- ⇒ The applicant's profession qualifies under the TN 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.

Canadian citizens may apply for TN classification either at the U.S. Border or by filing a petition with the United States Citizenship and Immigration Service (USCIS). Canadians are not required to apply for a TN visa at a U.S. consulate. The applicant may establish eligibility for TN classification at the time they 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-flight inspection station: tinyurl.com/TN-and-L-POE. 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 for this category 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 applicant.

4 When all forms and letters have been finalized and all required documents have been provided, Meltzer Hellrung will ship the completed application to the applicant or to USCIS



Option 1: USCIS Application with Dependents (Spouse or Children under 21)

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 United States.

Option 2: CBP Application with Dependents (Spouse or Children under 21)

We can also prepare TD applications for all dependent family members of the applicant. Please note that if dependents are not Canadian citizens, they are not visa exempt and will have to apply for a visa stamp at a U.S. consulate or embassy abroad.

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 premium processing 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: CBP Border Review

Once the application is completed, we will ship the application to the applicant, who can then apply for the TN visa directly at a border crossing or pre-flight inspection prior to entering the U.S. We recommend arriving at the airport at least 4 hours prior to your flight. The interview typically takes 5–7 minutes and the officer will let you know immediately whether the case is approved or denied.

Individuals should consult Meltzer Hellrung regarding where to apply for their visas. Many ports of entry are not staffed with CBP officers familiar with the TN regulations.

6 Post filing outcomes



Option 1: Approval USCIS

USCIS approves the TN petition and issues an I-797A, Notice of Action approval notice which the applicant will subsequently be able to use for entry into the U.S.

Option 2: CBP 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. Upon review of the information, the officer may approve the petition and allow the candidate to proceed with entering the U.S. on TN visa.

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: CBP Withdrawal/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 should proceed with traveling to the United States. The applicant will present the approval notice issued by USCIS to the CBP officer at the Border or pre-flight inspection prior to entering the United States. 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.

Option 2: CBP 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 cbp.gov/i94
- 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
- Birth certificates for children
- Valid passports