



Building Bridges: Spanning U.S. Business Visa Options for Romanians

An Interactive Seminar

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Romanian American Chamber of Commerce, New York, NY USA • 1:00pm



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We ask that you consult with an immigration lawyer, as your facts are unique and because each situation requires analysis from many different perspectives. We cannot be responsible if you rely on information based on this presentation without the consultation of an immigration attorney.

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Thank you.



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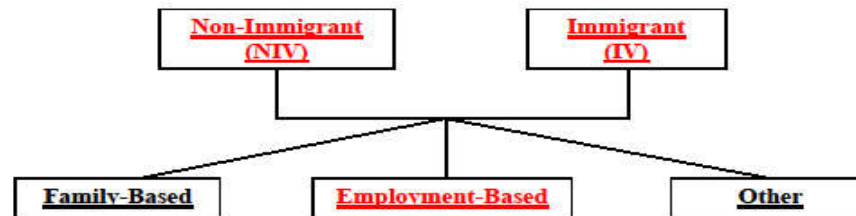
TO BE OR NOT TO BE: THAT IS THE *FIRST* QUESTION

- Foreign Owner of U.S. Business
- Foreign Employee of U.S. Business
- Shipping to the U.S.
- Investing in the U.S.



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General Immigration Overview



Immigrant Presumption: INA § 214(b): With limited exceptions, all visa applicants are presumed to be immigrants (and, therefore, not eligible for non-immigrant visas) unless and until they satisfy the consular officer that they qualify for a nonimmigrant visa.

- Burden of proof is on the applicant
- “Employment”-Based NIVs Subject to 214(b): B-1, J, M, O-2, P, Q
 - Basis for Denial Examples: Failure to make a substantial investment (E-2); failure to possess the intent not to abandon a foreign residence(B-1)
- **Exception: H-1B, L-1 – “Dual Intent”**
- “Quasi” Dual Intent:
 - E-1/E-2 (PERM only; must have intent to “depart” at conclusion of assignment)
 - O-1 (PERM only)



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EMPLOYMENT-BASED *NON-IMMIGRANT* VISA OPTIONS

- B-1 Business Visitor
- E-2 Treaty Investor
- H-1B Temporary Worker
- H-3 Trainee
- J-1 Intern/Trainee
- L-1 Intracompany Transferee
- O-1 Extraordinary Ability



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EMPLOYMENT-BASED IMMIGRANT VISA OPTIONS

There are 3 steps to obtaining permanent residence through Employer Sponsorship:

- Labor Certification through the PERM process (DOL):
 - approx. 8-20 months.
 - Un-Audited Cases: approx. 2-3 months.
 - Audited Cases: approx. 10 months from the audit.
- I-140 Immigrant Petition for Alien Worker (USCIS):
 - approx. 8-10 months (standard processing).
 - approx. 15 days (premium processing, if qualified)
- Consular Processing or I-485 Application to Register Permanent Residence (USCIS):
 - approx. 12-18 months



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EMPLOYMENT-BASED IMMIGRANT VISA PREFERENCE CATEGORIES

- First Preference – Priority Workers (EB-1):
 - Extraordinary Ability aliens
 - Outstanding Professors and Researchers
 - Multinational Executives and Managers
- Second Preference (EB-2):
 - Aliens with advanced degrees in professional fields
 - Aliens with exceptional ability in the sciences, arts, or business
 - National Interest Waiver (NIW)
- Third Preference (EB-3):
 - Skilled Workers
 - Professional Workers
 - Other Workers
- Fifth Preference (EB-5): Employment Creation - Immigrant Investors



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ON THE HORIZON

- ESTA/Visa Waiver Program
- E-1 Treaty Trader
- Congressional Activity
 - I-Squared & RAISE
 - Wages and other H-1B and L-1 restrictions
 - H-1B dependent employers
 - Points-based migration system
- Policy Decisions
 - End of deference in extensions
 - More RFEs and NTAs
 - H-4?
 - Interviews for employment-based green cards
 - Longer processing times
- Executive Action
 - Buy American/Hire American: Increased scrutiny
 - Increased site visits and I-9 audits



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Q & A