



Instructions for Application for Nonimmigrant Worker: E and TN Classifications

Department of Homeland Security
U.S. Citizenship and Immigration Services

USCIS
Form
I-129E&TN
OMB No. 1615-xxxx
Expires xx/xx/20xx

What is The Purpose of Form I-129E&TN

This application is used to file a request with U.S. Citizenship and Immigration Services (USCIS) for nonimmigrant E or TN classification in order to engage or continue to engage in business activities in the United States pursuant to an existing treaty, free trade agreement, or legislation, including requests for extensions of Commonwealth of the Northern Mariana Islands (CNMI) investor classification.

Form I-129E&TN consists of the:

1. Basic application; and
2. Individual supplements relating to specific classifications.

Who May File Form I-129E&TN

A U.S. employer, U.S. agent, E or TN applicant, or a CNMI investor applying for an extension of stay, as applicable, may file this application and applicable supplements to classify an alien in any nonimmigrant classification listed in **Part 2** of Form I-129E&TN. A foreign employer may file for certain classifications as indicated in the specific instructions. A U.S. employer, U.S. agent, or other E or TN applicant must file this application where there is a substantive change in the terms or conditions of the previously approved status of the TN nonimmigrant, an E-1 treaty trader, an E-2 treaty investor, or an E-1 or E-2 employee.

General Instructions

USCIS provides forms free of charge through the USCIS website. In order to view, print, or fill out our forms, you should use the latest version of Adobe Reader, which you can download for free at <http://get.adobe.com/reader/>. If you do not have internet access, you may order USCIS forms by calling the USCIS Contact Center at **1-800-375-5283**. The USCIS Contact Center provides information in English and Spanish. For TTY (deaf or hard of hearing) call: **1-800-767-1833**.

Signature. Each application must be properly signed and filed. For all signatures on this application, USCIS will not accept a stamped or typewritten name in place of a signature. A legal guardian may also sign for a mentally incompetent person. If the request is not signed or if the requisite signature on the request is not valid, USCIS will reject the request. See 8 CFR 103.2(a)(7)(ii)(A). If USCIS accepts a request for adjudication and determines that it has a deficient signature, USCIS will deny the request.

Validity of Signatures. USCIS will consider a photocopied, faxed, or scanned copy of the original, handwritten signature valid for filing purposes. The photocopy, fax, or scan must be of the original document containing the handwritten, ink signature.

Filing Fee. Each application must be accompanied by the appropriate filing fee. (See the **What Is the Filing Fee** section of these Instructions.)

Evidence. At the time of filing, you must submit all evidence and supporting documents listed in these Instructions.

Biometric Services Appointment for Certain Applicants. After receiving your application and ensuring completeness, USCIS may inform you in writing if the applicant must submit biometrics. Failure of an applicant to attend a biometric services appointment may result in denial of your application.

Copies. You should submit legible photocopies of documents requested, unless the Instructions specifically state that you must submit an original document. USCIS may request an original document at the time of filing or at any time during processing of an application or petition. If USCIS requests an original document from you, it will be returned to you after USCIS determines it no longer needs your original.

NOTE: If you submit original documents when not required or requested by USCIS, **your original documents may be immediately destroyed after we receive them.**

Translations. If you submit a document with information in a foreign language, you must also submit a full English translation. The translator must sign a certification that the English language translation is complete and accurate, and that he or she is competent to translate from the foreign language into English. The certification must also include the translator's signature, printed name, the signature date, and the translator's contact information.

How to Fill Out Form I-129E&TN

1. Type or print legibly in black ink.
2. Complete the basic application and any relating supplements.
3. If you need extra space to complete any item within this application, use the space provided in **Part 10. Additional Information** or attach a separate sheet of paper. Type or print the individual employer, sole proprietor, or applicant's name at the top of each sheet; indicate the **Page Number, Part Number, and Item Number** to which your answer refers; and sign and date each sheet.
4. Answer all questions fully and accurately. If a question does not apply to you (for example, if you have never been married and the question asks, "Provide the name of your current spouse"), type or print "N/A" unless otherwise directed. If your answer to a question which requires a numeric response is zero or none (for example, "How many children do you have" or "How many times have you departed the United States"), type or print "None" unless otherwise directed.
5. If applicable, you should submit a duplicate copy of the application and all supporting documentation. **Failure to do so may result in delays in processing this application or in visa processing abroad, if applicable.**

Information About Form I-129E&TN

The following classifications require an application **only if the applicant is already in the United States and requesting an extension of stay or a change of status.**

1. **E-1** - Treaty Trader
2. **E-1** - Employee - Executive or Supervisory
3. **E-1** - Employee - Special Qualifications
4. **E-2** - Treaty Investor (not including E-2 CNMI investors)
5. **E-2** - CNMI Investors)
6. **E-2** - Employee - Executive or Supervisory
7. **E-2** - Employee - Special Qualifications
8. **E-3** - Specialty occupation workers from Australia
9. **TN** - Professional Level Business Persons from Canada or Mexico under the North American Free Trade Agreement (NAFTA)
10. Advice on Whether a Change in the Terms or Conditions of E Status is Substantive.

E-1 Nonimmigrants

The E-1 classification is for aliens who are nationals of a country with which the United States maintains a qualifying treaty or an international agreement, or which has been deemed a qualifying country by legislation, and who are coming to the United States to carry on substantial trade principally between the United States and the alien's country of nationality. The Department of State maintains a list of countries with qualifying treaties. See <https://travel.state.gov/content/visas/en/fees/treaty.html> for a list of qualifying countries.

Qualifying trade involves the commercial exchange of goods or services in the international marketplace. **Substantial trade** is an amount of trade sufficient to ensure continuous flow of international trade items between the United States and the treaty country. **Principal trade** exists when more than 50 percent of the E-1's total volume of international trade is conducted between United States and the treaty country.

An employee of an E-1 treaty trader who possesses the same nationality as the E-1 employer may also be classified as E-1. The employee must principally and primarily perform executive or supervisory duties or possess special qualifications that are essential to the successful or efficient operation of the enterprise. The E-1 employee may perform work for the parent treaty organization or enterprise, or any subsidiary of the parent organization or enterprise.

The application must be filed with evidence of:

- 1. Ownership and Nationality of the E-1 treaty trader.** Such evidence may include, but is not limited to, lists of owners with current status and nationality, equity certificates, certificate of ownership issued by the commercial section of a foreign embassy, and reports from an accountant;
- 2. Substantial Trade.** Evidence of substantial trade may include, but is not limited to: bills of lading, customs receipts, letter of credit, trade brochures, purchase orders, insurance papers, documenting commodities imported, carrier inventories, and/or sales contracts, or other probative documentation establishing the requisite substantial trade; and
- 3. For E-1 employees only:** Executive or supervisory duties, or special qualification essential to the enterprise. Evidence of such duties or qualifications may include, but is not limited to, certificates, diplomas or transcripts, letters from employers describing job titles, duties, operators' manuals, and the required level of education and knowledge.

E-2 Nonimmigrants

The E-2 classification is for aliens who are nationals of a country with which the United States maintains a qualifying treaty or an international agreement, or which has been deemed a qualifying country by legislation, and who are coming to the United States to develop and direct the operations of an enterprise in which the alien has invested or is actively in the process of investing a substantial amount of capital. The Department of State maintains a list of countries with qualifying treaties. See <https://travel.state.gov/content/visas/en/fees/treaty.html> for a list of qualifying countries.

An E-2 must demonstrate possession and control of capital invested or in the process of being invested and the ability to develop and direct the investment enterprise. Capital in the process of being invested or that has been invested must be placed at risk and be irrevocably committed to the enterprise. The enterprise must be a real, active, and operating commercial or entrepreneurial undertaking that produces services or goods for profit. The investment must be substantial and the funds must not have been obtained, directly or indirectly, from criminal activity. The enterprise must be more than marginal.

An employee of an E-2 who possesses the same nationality as the E-2 employer may also be classified as E-2. The employee must principally and primarily perform executive or supervisory duties, or possess special qualifications that are essential to the successful or efficient operation of the enterprise.

The application must be filed with evidence of:

- 1. Ownership and Nationality of the E-2 treaty investor.** Such evidence may include, but is not limited to, lists of owners with current status and nationality, equity certificates, certificate of ownership issued by the commercial section of a foreign embassy, and reports from an accountant;

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2. **Substantial investment.** Such evidence may include, but is not limited to, copies of organizational documents (showing capital contribution and proportionate ownership), capitalization table or equity ledger, equity certificates, business appraisals or valuations, annual reports or other financial statements prepared by certified professional accountants, documents showing capital and other routine business expenses (for example, leases, equipment, inventory, advertising), bank accounts containing funds for routine operations, and funds held in escrow; and
 3. **For E-2 employees only:** Executive or supervisory duties, or special qualifications essential to the enterprise. Evidence of such duties or qualifications may include, but is not limited to, certificates, diplomas or transcripts, letters from employers describing job titles, duties, operators' manuals, and the required level of education and knowledge.

Requests for Advice regarding E-1 and E-2 Applications

You may seek advice from USCIS to determine whether changes in the terms or conditions in E status are substantive. To obtain advice, file Form I-129E&TN and E-1/E-2 Classification Supplement, with fee. Select the Advice box in **Part 1, Item Number 3.** of the E-1/E-2 supplement.

E-2 CNMI (E-2C) Investor

An E-2 CNMI investor is an alien who seeks to enter or remain in the CNMI in order to maintain an investment in the CNMI that was approved by the CNMI government prior to November 28, 2009. An E-2 CNMI investor classification is specifically limited to an alien investor who has previously been granted a qualifying long term investor status under the laws of the CNMI. This classification allows an eligible alien to be lawfully present in the CNMI in order to maintain the investment during the transition period from CNMI to Federal immigration law. An investor's nationality is not a qualifying factor in the issuance of an E-2 CNMI investor classification.

This classification is available only for extensions and expires on December 31, 2029.

Requests for extension of the E-2 CNMI investor classification may be granted, in increments of not more than two years, until December 31, 2029. If you depart the CNMI while your application is pending, your application or application for admission may be denied. If you attempt to use this visa to enter, reside, or work in the rest of the United States you are no longer eligible for this status.

If there is a substantive change in the E-2 CNMI investor's compliance with the terms and conditions of qualification for the E-2 CNMI Investor Nonimmigrant status, the alien must file a new application requesting an extension of stay. Corporate or investment changes that do not affect a previously approved investor certificate or terms of the nonimmigrant status or are otherwise non-substantive do not require prior approval.

The application for extension of stay must be filed with documentary evidence of:

1. Continuous maintenance of the terms and conditions of E-2 CNMI investor nonimmigrant status; and
2. Physical presence in the CNMI at the time of filing of the extension of stay request.

An applicant with a previously issued E-2 CNMI Investor status based on a CNMI-issued foreign investor entry permit or long-term business entry permit must submit evidence with their extension of status application to show that he or she has maintained his or her investment and continue to comply with the terms and conditions of the E-2 CNMI investor status. This evidence includes the following, as applicable:

1. A copy of the original or updated approval letter issued by the CNMI government;
2. Evidence that capital has been invested, such as bank statements, receipts or contracts for assets purchased, subscription or other equity purchase agreements, loan or other borrowing agreements, land leases, financial statements, business gross tax receipts, or other agreements supporting the application;
3. Evidence that the applicant has invested at least the minimum amount required, such as evidence of assets purchased or property transferred from abroad for use in the enterprise, evidence of monies transferred or committed to be transferred to the new or existing enterprise in exchange for shares of stock, any loan or mortgage, promissory note, security agreement or other evidence of borrowing secured by assets of the applicant;

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4. The current business plan, organizational documents (for example, articles of incorporation, partnership agreements), joint venture agreements, corporate minutes and annual reports, affidavits, declarations or certifications of paid-in capital for the enterprises relating to the investments;
 5. Current business licenses;
 6. Most recent annual corporation tax returns;
 7. CNMI business gross revenue tax returns;
 8. CNMI employer's quarterly withholding tax returns;
 9. Current Foreign business registration records, most recent tax returns, evidence of other sources of capital;
 10. A listing of all resident and nonresident employees;
 11. A listing of all holders of business certificates for the business establishment;
 12. A listing of all entities in which the applicant has a controlling interest; and
 13. Copies of annual reports of investment activities in the CNMI showing that the certificate holder of a foreign investment is under continuing compliance with the standards required. Each report must be accompanied by an annual financial audit report performed by an independent certified public accountant.

Individuals with a CNMI-issued retiree investor permit

CNMI retiree investors should submit the following with their applications for E-2 CNMI Investor status:

1. Proof that the foreign applicant continues to have an interest in property in the CNMI, such as a lease agreement, mortgage, or property deed;
2. Proof of the value of that property, such as an appraisal; and
3. Proof of the value of any improvements to the property, such as receipts or invoices for the construction, the amount paid for a preexisting structure, or an appraisal of improvements made since your last extension application.

All E-2 CNMI investor applicants must also comply with the general Change of Status or Extension of Stay below.

E-3 Nonimmigrants

The E-3 classification was created to implement Public Law 109-13, entitled "The Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005" (May 11, 2005). The new law added paragraph (iii) to the Immigration and Nationality Act (INA) section 101(a)(15)(E), establishing a visa classification for Australians in specialty occupations.

An E-3 principal applicant must be an Australian national coming to the United States temporarily to perform services in a specialty occupation.

A specialty occupation is one that requires the theoretical and practical application of a body of highly specialized knowledge to fully perform the occupation and requires the attainment of a bachelor's or higher degree in a specific specialty, or its equivalent, as a minimum for entry into the occupation in the United States.

The application must be filed with:

1. Evidence that the principal applicant is an Australian national;
2. Evidence that the intending employer filed a labor condition application (LCA) that has been certified by the U.S. Department of Labor;
3. Evidence showing that the applicant is coming to perform services in a specialty occupation, which may include documentation that the applicant qualifies to perform the duties of a specialty occupation, such as:
 - A. A copy of the applicant's U.S. bachelor's or higher degree or equivalent as required by the specialty occupation; or
 - B. A copy of a foreign degree and evidence that it is equivalent to the U.S. degree; and

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4. A copy of any required license or other official permission to practice the occupation in the state of intended employment, as applicable.

NOTE: Dependent family members do not have to be Australian nationals.

North American Free Trade Agreement (NAFTA) Nonimmigrants (TNs)

The TN nonimmigrant classification is for aliens who are citizens of Canada or Mexico covered by NAFTA who are coming to the United States to engage temporarily in business activities at a professional level. Depending on the specific type of business activity, a TN must at least have a bachelor's degree or, in certain limited instances, other appropriate credentials which demonstrate status as a professional. A TN nonimmigrant may not establish a business or practice in the United States in which the professional will be, in substance, self-employed. A professional will be deemed to be self-employed if he or she will be rendering services to a corporation or entity of which the professional is the sole or controlling shareholder or owner. In all cases, whether a TN applicant will be deemed to be, in substance, self-employed will depend on all the facts available to USCIS. Acceptable types of TN business activities at a professional level are listed at 8 CFR 214.6(c).

Documentary evidence must be submitted with the Form I-129 if the applicant is a citizen of Canada and is currently outside the United States **OR** if the applicant is a citizen of Canada or Mexico and is in the United States and is requesting an **"Extension of Stay"** or **"Change of Status"** to TN. The applicant must submit evidence demonstrating that he or she will be engaged in business activities at a professional level and that the applicant possesses the requisite professional qualifications. Acceptable evidence may include, but is not limited to, the following:

1. A letter from the employer stating the activity the applicant will be engaged in, the anticipated length of stay, and the arrangements for remuneration;
2. A copy of the applicant's last two pay stubs, most recent W-2 if employed in the United States, and Internal Revenue Service (IRS) transcripts of the applicant's federal individual income tax return for the three most recent tax years, if applicable; and
3. Evidence the applicant meets the educational and/or licensing requirements for the profession or occupation.

NOTE: While an application is not required for citizens of Canada who are outside the United States, these individuals may still choose to use this application to apply for TN status with USCIS. However, Mexican citizens who are outside the United States are not eligible to use this application to apply for TN status with USCIS and instead must apply for a TN visa with the U.S. Department of State.

All Classifications - Change of Status or Extension of Stay

An application requesting a change of status or an extension of stay for an employee in the United States must be filed with the evidence listed below. Consult the regulations that relate to the specific nonimmigrant classification sought.

A nonimmigrant who must have a passport to be admitted must maintain a valid passport during his or her entire stay. If a required passport is not valid, include a full explanation with your application.

An application requesting a change of status or an extension must be filed with:

1. A copy of the applicant's Form I-94, Nonimmigrant Arrival/Departure Record, passport, travel document, or Form I-797;
2. Evidence showing that the applicant qualifies for the classification sought;
3. Evidence to establish that the applicant has continuously maintained his or her current nonimmigrant status including a copy of the applicant's last two pay stubs, most recent W-2, and Internal Revenue Service (IRS) transcripts of the applicant's federal individual income tax return for the three most recent tax years, if applicable; and
4. Evidence the applicant continues to meet any licensing requirements for the profession or occupation, if applicable.

NOTE: The applicant's dependent family members (generally, spouses and children) should use Form I-539, Application to Change/Extend Nonimmigrant Status, to apply for a change of status or extension of stay.

The following nonimmigrants are not eligible to change status:

1. An alien admitted under a visa waiver program;
2. An alien in transit (C) or in transit without a visa (TWOV);
3. A crewman (D);
4. A K-1 fiancé(e) or his or her K-2 dependent;
5. A K-3 spouse of a U.S. citizen or his or her K-4 dependent;
6. A J-1 exchange visitor who was admitted in J-1 status for the purpose of receiving graduate medical training; and
7. A J-1 exchange visitor subject to the foreign residence requirement who has not received a waiver of that requirement.

Specific Instructions

Part 1. Applicant Information

Item Numbers 1. and 2. If you are an individual filing Form I-129E&TN, including as a sole proprietor (someone who owns a business, but the business is not organized as a separate legal entity), you must complete **Part 1. Item Numbers 1. and 2.**, in addition to **Item Numbers 4. - 17.**, as applicable.

Item Number 3. Name of Company or Organization. If you are a company or an organization filing this application, provide the name of your company or organization.

Item Number 4. Trade Name or "Doing Business As" Name. If you are a company or an organization that is known by a different name than the one you provided in **Item Number 3.**, provide your trade name or "doing business as" name.

Item Number 6. Primary U.S. Office Address of the Company or Organization. Provide the address of the applicant or employer's primary office within the United States. The primary U.S. office address must not be the address of the applicant or employer's outside counsel or clients. The location of your primary office may determine where the application must be filed.

Item Numbers 7. - 8. Mailing Address. Provide the company or organization's mailing address, if different from the Primary U.S. Office Address.

Item Numbers 9. - 11. Applicant's Contact Information. Provide the applicant's contact information.

Item Numbers 12. - 14. Tax Payer Identification Numbers. Provide an Employer Identification Number (EIN), Individual Taxpayer Identification Number (ITIN), and/or U.S. Social Security Number (SSN), as applicable. Individual employers and sole proprietors **must** provide a U.S. Social Security Number.

Item Numbers 15. - 17. E-Verify Information. If the applicant is an employer or will work for a principal employer who participates in E-Verify and will complete Forms I-9 for the applicant, provide the principal employer's E-Verify Company Identification Number or Client Company Identification Number. E-Verify is an internet-based system that compares information entered by an employer from an employee's Form I-9, Employment Eligibility Verification, to records available to U.S. Department of Homeland Security (DHS) and the Social Security Administration to confirm employment eligibility. The E-Verify company Identification Number, which consists of four to seven numerical characters, is located on each page of the memorandum of understanding directly below the E-Verify logo. The E-Verify Contact Center is available to assist you if you have additional questions by emailing E-Verify@dhs.gov.

Part 2. Information About This Application

Item Number 1. Requested Nonimmigrant Classification. Select the box that indicates the classification you seek. Additional information regarding the classification must be provided using the Supplement that corresponds to the classification you seek.

Item Number 2. Basis for Classification. Select only one of the following options:

Item A. New employment/investment/trade. Select this box if the applicant:

1. Is outside the United States and holds no classification;
2. Will begin employment for a new U.S. employer in a different nonimmigrant classification than he or she currently holds; **or**
3. Will work for the **same** employer but in a different nonimmigrant classification.

NOTE: Do not select this box if the applicant will work for the same employer in the same classification but there is a material change in the terms and conditions of employment, investment, trade, or the applicant's eligibility as specified in the original approved petition or application. Select the box for **Item F. Amended Application**, instead.

Item B. Continuation of previously approved employment/investment/trade without change with the same employer. Select this box if you are applying to continue the employment of the applicant in the same nonimmigrant classification the applicant currently holds and there has been no change to the employment.

Item C. Change in previously approved employment but continuation of employment with the same employer. Select this box if you are notifying USCIS of a non-material change to the previously approved employment such as a change in job title without a material change in job duties.

Item D. New concurrent employment. Select this box if you are applying for an applicant to begin new employment with an **additional employer** in the same nonimmigrant classification the applicant currently holds while the applicant will continue working for his or her current employer in the same classification.

Item E. Change of employer or change of investment for an applicant already in the requested classification. Select this box if you are applying for an applicant to begin employment working for a new employer in the same nonimmigrant classification that the applicant currently holds.

Item F. Amended application. Select this box if you are notifying USCIS of a material change in the terms or conditions of employment, investment, trade, or the applicant's eligibility as specified in the original petition or application.

Item Number 3. Receipt Number. Provide the receipt number for the most recently filed petition or application submitted to USCIS for this applicant.

Item Number 4. Requested Action. The following information explains the actions the employer, applicant, or authorized signatory may request on their application. Select **only one** action.

Item A. Notify the office in Part 5. so that the applicant can apply for and obtain a visa or be admitted, if eligible. Select this box if the applicant is outside of the United States, or, if the applicant is currently in the United States, but he or she will leave the United States to obtain a visa/admission abroad.

Item B. Change the status and extend the stay of the applicant because the applicant is now in the United States in another status. Select this box if the applicant is currently in the United States in a different nonimmigrant classification and is applying to change to a new, nonimmigrant status.

Item C. Extend the stay of the applicant because the applicant now holds this status. Select this box if the applicant is currently in the United States in a nonimmigrant classification and is requesting an extension of his or her stay in the same nonimmigrant classification.

Item D. Amend the terms of stay of the applicant because the applicant now holds this status. Select this box if the applicant is currently in the United States in the same nonimmigrant classification and you are notifying USCIS of any material changes in the terms and conditions of employment, investment, trade, or the applicant's eligibility as specified in the original petition or application, but you are not seeking a change in previously approved validity dates.

Item E. Request for advice as to whether a change in the terms or conditions that relates to E eligibility is substantive. Select this box if you are seeking advice from USCIS as to whether there has been a substantive change to the prior E approval.

Part 3. Applicant or Employee Information

Item Numbers 1. - 11. Provide the information requested about the applicant or employee for whom you are filing this application.

Item Number 12. Form I-94, Arrival-Departure Record. If U.S. Customs and Border Protection (CBP) or USCIS issued the applicant a Form I-94, Arrival-Departure Record, provide the applicant's Form I-94 number and date the applicant's authorized period of stay expires or expired (as shown on applicant's Form I-94). The Form I-94 number also is known as the Departure Number on some versions of Form I-94.

NOTE: If the applicant was admitted to the United States by CBP at an airport or seaport after April 30, 2013, CBP may have issued them an electronic Form I-94 instead of a paper Form I-94. The applicant may visit the CBP website at www.cbp.gov/i94 to obtain a paper version of an electronic Form I-94. CBP **does not** charge a fee for this service. Some travelers admitted to the United States at a land border, airport, or seaport, after April 30, 2013, with a passport or travel document, who were issued a paper Form I-94 by CBP, may also be able to obtain a replacement Form I-94 from the CBP website without charge. If the applicant cannot obtain their Form I-94 from the CBP website, it may be obtained by filing Form I-102, Application for Replacement/Initial Nonimmigrant Arrival-Departure Record, with USCIS. USCIS does charge a fee for this service. See the USCIS website at www.uscis.gov/I-102 for more information.

Passport and Travel Document Numbers. If the applicant used a passport or travel document to travel to the United States, enter either the passport or travel document information in the appropriate space on the application, even if the passport or travel document is currently expired.

Item Numbers 13. - 14. Applicant's or Employee's Current U.S. Residential Address. You must provide the applicant's current address if the applicant is in the United States. USCIS will use this address, unless otherwise updated through the AR-11, Alien's Change of Address process, to notify the applicant if USCIS denies a request to change status or extend stay submitted on Form I-129E&TN.

Part 4. Information About The Applicant's or Employee's Public Benefits

On July 29, 2020, the U.S. District Court for the Southern District of New York (SDNY) in *State of New York, et al. v. DHS, et al. and Make the Road NY et al. v. Cuccinelli, et al.* enjoined the Department of Homeland Security (DHS) from enforcing, applying, implementing, or treating as effective the Inadmissibility on Public Charge Grounds Final Rule ("Public Charge Final Rule") for any period during which there is a declared national health emergency in response to the COVID-19 outbreak. (84 FR 41292, Aug. 14, 2019, final rule; as amended by 84 FR 52357, Oct. 2, 2019, final rule correction). Subsequently, on August 12, 2020, the U.S. Court of Appeals for the Second Circuit, in *State of New York, et al. v. DHS, et al. and Make the Road NY et al. v. Cuccinelli*, granted an administrative stay of the July 29, 2020 nationwide injunction in all states outside of the Second Circuit, i.e. all states except New York, Connecticut, and Vermont. This stay allows DHS to continue implementing the Public Charge Final Rule everywhere except in New York, Connecticut, and Vermont.

During the injunction, petitioners requesting an extension of stay or changes of status using Form I-129E&TN on behalf of a beneficiary using I-129E&TN, in which the petitioner/employer has a physical address or in which the beneficiary physically resides in New York, Connecticut, or Vermont, should not provide information requested in **Part 4.**

Information About The Applicant or Employee's Public Benefits.

In general, a condition of the approval of a request to extend the applicant's stay or change the applicant's status is that the applicant must demonstrate that, since obtaining the nonimmigrant status that you seek to extend or from which you seek to change on behalf of the applicant, he or she has not received one or more public benefits as set forth in 8 CFR 212.21(b) (and listed below), for more than 12 months in the aggregate within any 36-month period (such that, for instance, receipt of two benefits in one month counts as two months). This condition only applies to beneficiaries who are seeking to change status or extend their stay in the United States. Therefore, you only have to complete the information in **Part 4.** if you are also requesting an extension of the applicant's stay in the United States or a change of the applicant's status with this application. If you are filing this application without a request for the applicant's change of status or extension of stay, you may skip **Part 4.**

Item Number 1. Public Benefits. Provide the information requested about the applicant's receipt or the applicant's current certification for receipt of public benefits, as defined in 8 CFR 212.21(b) (and which are listed below), unless the nonimmigrant classification you are seeking for the applicant is exempt from the public charge inadmissibility ground under INA 212(a)(4). Provide the requested information and documentation.

Item Number 2. You must provide information about all public benefits as defined in 8 CFR 212.21(b) (and which are listed below) received by the applicant in his or her current nonimmigrant status regardless of how long the applicant has received the public benefit, or the applicant's current certification for receipt of public benefits. USCIS will calculate the duration of each public benefit to be considered. If the applicant received public benefits intermittently throughout the year, provide each instance separately. For example, if the applicant received Supplemental Nutrition Assistance Program (SNAP) from January to February and June to December, list the information separately. If you require additional space, use the space provided in **Part 10. Additional Information**.

Receipt means when a benefit-granting agency provides a public benefit to the applicant whether in the form of cash, voucher, services, or insurance coverage. Only the public benefits received by or attributable to the applicant will be considered.

Indicate whether the applicant has received or been certified to receive the following public benefits, since having obtained the nonimmigrant status that you seek to extend or that you seek to change on behalf of the applicant. You need to respond even if the applicant falls within one of the categories of individuals for whom receipt of public benefits will not be considered - see table below for evidence that must be provided to document that the applicant qualifies for the exclusion):

- Any Federal, state, local, or tribal cash assistance for income maintenance;
- Supplemental Security Income (SSI);
- Temporary Assistance for Needy Families (TANF);
- Federal, state or local cash benefit programs for income maintenance (often called "General Assistance" in the state context, but which may exist under other names);
- Supplemental Nutrition Assistance Program (SNAP, formerly called "Food Stamps");
- Section 8 Housing Assistance under the Housing Choice Voucher Program;
- Section 8 Project-Based Rental Assistance (including Moderate Rehabilitation);
- Public Housing under the Housing Act of 1937, 42 U.S.C. 1437 et seq.; and
- Federally-Funded Medicaid.

NOTE: You need only to report public benefits received by the applicant on or after February 24, 2020 but not any received by the applicant before February 24, 2020.

If the applicant has not received any of the public benefits listed above, please select that option.

If the applicant is currently not certified to receive any of the public benefits listed above, please select that option.

If the applicant has received or is certified to receive the public benefits but requested disenrollment, please provide, in addition to providing the information about any exclusions below, evidence of the disenrollment or the request to disenroll if the public benefit-granting agency has not processed the request.

Unless the applicant qualifies for certain exclusions listed in the table below, the applicant is ineligible for extension of stay and change of status if the applicant has received, since obtaining the nonimmigrant status that you seek to extend or which you seek to change on behalf of the applicant, the public benefits listed above for more than 12 months in the aggregate within any 36-month period (such that, for instance, receipt of two public benefits in one month counts as two months).

The following is a list of exclusions from the public benefit considerations listed above. If the beneficiary belongs to one of the following categories, submit the evidence listed for the applicable categories.

Exclusion	Description	Evidence you must submit for the beneficiary to qualify for exclusion (as applicable)
U.S. Armed Forces Service Members	<p>At the time the public benefit was received or at the time you file the Form I-129, or at time of adjudication of the I-129, the beneficiary is:</p> <ul style="list-style-type: none"> An alien enlisted in the U.S. Armed Forces, serving in active duty or in the Ready Reserve component of the U.S. Armed Forces; 	<ul style="list-style-type: none"> Service Members: Certified evidence of alien's enlistment/service issued by the authorizing official of the executive department in which service member is serving. Spouses and Children of Service Members: Copy of Form DD-1173, United States Uniformed Services Identification and Privilege Card (Dependent).
	<ul style="list-style-type: none"> The spouse or child of the service member (listed above); or The spouse or child of an individual enlisted in the U.S. Armed Forces, or serving in active duty or in the Ready Reserve component of the U.S. Armed Forces. 	
Federally-funded Medicaid	<ul style="list-style-type: none"> Receipt by an alien child under 21 years of age; The recipient of Medicaid payment(s) for an "emergency medical condition"; The receipt of Medicaid for services provided under the Individuals with Disabilities Education Act (IDEA); or Receipt during pregnancy and during the 60-day period after the last day of the pregnancy. 	<ul style="list-style-type: none"> A statement with information regarding the "emergency medical condition" determination (if applicable); Documentation of payments under the IDEA or school-based service; or Pregnancy verification letter from medical professional including estimated duration of pregnancy.
Children Who Will Naturalize under INA 322	<ul style="list-style-type: none"> Child currently residing abroad who entered the United States with a nonimmigrant visa to attend N-600K, Application for Citizenship and Issuance of Certificate Under INA Section 322 interview. 	<ul style="list-style-type: none"> A copy of N-600K interview notice.
Public Benefits While in Immigration Category Exempt from Public Charge	<ul style="list-style-type: none"> Received public benefits while in a category that is exempt from public charge inadmissibility; or Received public benefits while in a category for which the applicant 	<p>Information that evidences the applicant's status or that the applicant received a waiver for the public charge ground of inadmissibility, such as:</p> <ul style="list-style-type: none"> Approval notice (Form I-797, Notice of Action); or

Exclusion	Description	Evidence you must submit for the beneficiary to qualify for exclusion (as applicable)
	had received a waiver for public charge inadmissibility.	<ul style="list-style-type: none"> Form I-94, Arrival/Departure Record.

Documentation

If the applicant has received or is currently certified to receive, any of the public benefits listed above, submit evidence in the form of a letter, notice, certification, or other agency documents that contain the following:

1. Applicant's name;
2. Name and contact information for the public benefit granting agency;
3. Type of public benefit;
4. Date the applicant started receiving the public benefit or, if certified, date the applicant will start receiving the public benefit; and
5. Date the benefit or coverage ended or expires (mm/dd/yyyy).

If the applicant has received or is currently certified to receive public benefits, please indicate whether an exclusion applies to the applicant in **Item Number 3.**, and provide the evidence listed in the chart above to demonstrate why the benefit should not be considered.

Part 7. Statement, Contact Information, Certification, and Signature of the Employer, Applicant, or Authorized Signatory. Select the appropriate box to indicate whether you read this application yourself or whether you had an interpreter assist you. If someone assisted you in completing the application, select the box indicating that you used a preparer. Further, you must sign and date your application. If **Part 7.** is being completed by an authorized signatory, then the authorized signatory must provide his or her daytime telephone number, mobile telephone number (if any), and email address (if any). Every application **MUST** contain the signature of the employer, applicant (or parent or legal guardian, if applicable) or authorized signatory. A stamped or typewritten name in place of a signature is not acceptable.

Part 8. Interpreter's Contact Information, Certification, and Signature. If you used anyone as an interpreter to read the Instructions and questions on this application to you in a language in which you are fluent, the interpreter must fill out this section; provide his or her name, the name and address of his or her business or organization (if any), his or her daytime telephone number, his or her mobile telephone number (if any), and his or her email address (if any). The interpreter must sign and date the application.

Part 9. Contact Information, Declaration, and Signature of the Person Preparing this Application, if Other Than the Employer, Applicant, or Authorized Signatory. This section must contain the signature of the person who completed your application, if other than you, the employer, applicant, or authorized signatory. If the same individual acted as your interpreter **and** your preparer, that person should complete both **Part 8.** and **Part 9.** If the person who completed this application is associated with a business or organization, that person should complete the business or organization name and address information. Anyone who helped you complete this application **MUST** sign and date the application. A stamped or typewritten name in place of a signature is not acceptable. If the person who helped you prepare your application is an attorney or accredited representative, he or she may also need to submit a completed Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative, along with your application.

We recommend that you print or save a copy of your completed application to review in the future and for your records.

What Is the Filing Fee?

The filing fee for Form I-129E&TN is **\$695**.

NOTE: The filing fee is not refundable, regardless of any action USCIS takes on this petition. **DO NOT MAIL CASH.** You must submit all fees in the exact amounts. USCIS will reject or deny your Form I-129E&TN if you fail to submit required fees when you submit your application. You should pay the filing fee and each additional fee with separate checks or money orders.

Payments by Checks or Money Orders

Use the following guidelines when you prepare your checks or money orders for the Form I-129E&TN filing fee and additional fees:

1. The checks or money orders must be drawn on a bank or other financial institution located in the United States and must be payable in U.S. currency; **and**
3. Make the checks or money orders payable to **U.S. Department of Homeland Security**.

NOTE: Spell out U.S. Department of Homeland Security; do not use the initials "USDHS" or "DHS."

Notice to Those Paying by Check. If you send USCIS a check, we will convert it into an electronic funds transfer (EFT). This means we will copy your check and use the account information on it to electronically debit your account for the amount of the check. The debit from your account will usually take 24 hours and your bank will show it on your regular account statement.

You will not receive your original check back. We will destroy your original check, but will keep a copy of it. If USCIS cannot process the EFT for technical reasons, you authorize us to process the copy in place of your original check. If your check is returned as unpayable, we will reject your application.

How To Check If the Fees Are Correct

Form I-129E&TN's filing fee is current as of the edition date in the lower left corner of this page. However, because USCIS fees change periodically, you can verify that the fee is correct by following one of the steps below.

1. Visit the USCIS website at www.uscis.gov, select "FORMS," and check the appropriate fee; or
2. Visit the USCIS Contact Center at www.uscis.gov/contactcenter to get answers to your questions and connect with a live USCIS representative. The USCIS Contact Center provides information in English and Spanish. For TTY (deaf or hard of hearing) call: **1-800-767-1833**.

When to File?

Generally, Form I-129E&TN may not be filed more than six months prior to the date employment is scheduled to begin. Applicants should review the appropriate regulatory provisions in 8 CFR that relate to the nonimmigrant classification sought.

Where to File?

Please see our website at www.uscis.gov/I-129ETN or visit the USCIS Contact Center at www.uscis.gov/contactcenter to connect with a USCIS representative for the most current information about where to file this application. Applications filed with the incorrect location may be rejected or denied. The USCIS Contact Center provides information in English and Spanish. For TTY (deaf or hard of hearing) call: **1-800-767-1833**.

Premium Processing

To determine if your application is eligible for Premium Processing, visit the USCIS website at www.uscis.gov/forms/how-do-i-use-premium-processing-service. If your Form I-129E&TN is eligible for and you are requesting Premium Processing Services, you must also file Form I-907, Request for Premium Processing Service. **Send Form I-129E&TN and Form I-907 together according to the filing instructions for Form I-907.** Please see our website at www.uscis.gov/I-907.

Address Change

An applicant who is not a U.S. citizen must notify USCIS of his or her new address within 10 days of moving from his or her previous residence. USCIS will use the most recent address to notify the applicant that an application requesting an extension of stay or change of status has been denied. For information on filing a change of address, go to the USCIS website at www.uscis.gov/addresschange or reach out to the USCIS Contact Center at www.uscis.gov/contactcenter for help. The USCIS Contact Center provides information in English and Spanish. For TTY (deaf or hard of hearing) call: **1-800-767-1833**.

NOTE: Do not submit a change of address request to the USCIS Lockbox facilities because the Lockbox does not process change of address requests.

Processing Information

Initial Processing. Once USCIS accepts your application, we will check it for completeness. If you do not completely fill out this application, you will not establish a basis for your eligibility and USCIS may reject or deny your application.

Requests for More Information. USCIS may request that you provide more information or evidence to support your application. We may also request that you provide the originals of any copies you submit. If we request an original document from you, it will be returned to you after USCIS determines it no longer needs your original.

Requests for Interview. We may request that you appear at a USCIS office for an interview based on your application. At the time of any interview or other appearance at a USCIS office, we may require that you provide your biometrics to verify your identity and/or update background and security checks.

Decision. The decision on Form I-129 E&TN involves a determination of whether you have established eligibility for the immigration benefit you are seeking. USCIS will notify you of the decision in writing.

An application that is not properly filed may be rejected. An application is not considered properly filed until accepted by USCIS. Some reasons an application may be rejected include that it is not properly signed, is not accompanied by the correct fee, or was not properly filed with the correct Service Center. If rejected, USCIS will return the application along with a notice that identifies the basis for rejection. You may correct the deficiency and resubmit the application, in most circumstances.

USCIS Forms and Instructions

To ensure you are using the latest version of this application, visit the USCIS website at www.uscis.gov where you can obtain the latest USCIS forms and immigration-related information. If you do not have internet access, you may order USCIS forms by calling the USCIS Contact Center at **1-800-375-5283**. The USCIS Contact Center provides information in English and Spanish. For TTY (deaf or hard of hearing) call: **1-800-767-1833**.

Instead of waiting in line for assistance at your local USCIS office, you can schedule an appointment online at www.uscis.gov. Select "Tools," then under "Self Service Tools," select "Make an Appointment" and follow the screen prompts to set up your appointment. Once you finish scheduling an appointment, the system will generate an appointment notice for you.

Penalties

If you knowingly and willfully falsify or conceal a material fact or submit a false document with your Form I-129E&TN, we will deny your Form I-129E&TN and may deny any other immigration benefit. In addition, you will face severe penalties provided by law and may be subject to criminal prosecution.

USCIS Compliance Review and Monitoring

By signing this application, you have stated under penalty of perjury (28 U.S.C. section 1746) that all information and documentation submitted with this application are complete, true, and correct. You also authorize the release of any information from your records that USCIS may need to determine your eligibility for the immigration benefit you are seeking and consent to USCIS verifying such information.

DHS has the authority to verify any information you submit to establish eligibility for the immigration benefit you are seeking at any time. USCIS' legal authority to verify this information is in 8 U.S.C. sections 1103, 1155, and 1184, and 8 CFR parts 103, 204, 205, and 214. To ensure compliance with applicable laws and authorities, USCIS may verify information before or after your case is decided.

Agency verification methods may include, but are not limited to: review of public records and information; contact through written correspondence, the internet, fax, other electronic transmission, or telephone; unannounced physical site inspections of residences and locations of employment; and interviews. USCIS will use information obtained through verification to assess your compliance with the laws and to determine your eligibility for an immigration benefit.

Subject to the restrictions under 8 CFR 103.2(b)(16), USCIS will provide you with an opportunity to address any adverse or derogatory information that may result from a USCIS compliance review, verification, or site visit after a formal decision is made on your case or after the agency has initiated an adverse action which may result in revocation or termination of an approval.

DHS Privacy Notice

AUTHORITIES: The information requested on this application, and the associated evidence, is collected under INA sections 101, 214, 222, and 248 and 8 CFR parts 103, 214, and 248.

PURPOSE: The primary purpose for providing the requested information on this application is to file a request with USCIS for an extension of stay or change of status for certain nonimmigrants, including E-1, E-2, E-2C, E-3 nonimmigrants, and TN NAFTA workers. Note that where the applicant is currently, or is seeking to be, an employee of an E-1 treaty trader or E-2 treaty investor, the information can include details regarding the applicant's employer. DHS uses the information you provide to grant or deny the immigration benefit you are seeking.

DISCLOSURE: The information you provide is voluntary. However, failure to provide the requested information, including your Social Security number (if applicable), and any requested evidence, may delay a final decision or result in a rejection or denial of your application.

ROUTINE USES: DHS may share the information you provide on this application and any additional requested evidence with other Federal, state, local, and foreign government agencies and authorized organizations. DHS follows approved routine uses described in the associated published system of records notices [DHS/USCIS/ICE/CBP-001 Alien File, Index, and National File Tracking System, DHS/USCIS-007 Benefits Information System, and DHS/USCIS-018 Immigration Biometric and Background Check] and the published privacy impact assessment [DHS/USCIS/PIA-016(a) Computer Linked Application Information Management System and Associated Systems] which you can find at www.dhs.gov/privacy. DHS may also share this information, as appropriate, for law enforcement purposes or in the interest of national security.

Paperwork Reduction Act

An agency may not conduct or sponsor an information collection, and a person is not required to respond to a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. The public reporting burden for Form I-129E&TN is estimated at 3 hours and 30 minutes, for E-1/E-2 Classification Supplement to Form I-129E&TN at 1 hour and 27 minutes, for E-3 Classification Supplement to Form I-129E&TN at 1 hour, and for NAFTA Supplement to Form I-129E&TN at 30 minutes, including the time for reviewing instructions, gathering the required documentation and information, completing the application, preparing statements, attaching necessary documentation, and submitting the application. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: U.S. Citizenship and Immigration Services, Regulatory Coordination Division, Office of Policy and Strategy, 20 Massachusetts Ave NW, Washington, DC 20529-2140; OMB No 1615-XXXX. **Do not mail your completed Form I-129E&TN to this address.**