

TN STATUS AND PROCESSING | FREQUENTLY ASKED QUESTIONS

1. What is "TN"?

TN refers to an immigration status known as "Trade NAFTA". It is a nonimmigrant classification which allows qualified Canadian and Mexican citizens to work in certain professional occupations for U.S. employers.

2. What is "NAFTA"?

NAFTA stands for the North American Free Trade Agreement and is a tri-lateral trade agreement between the United States, Canada and Mexico. NAFTA provides that Canadians and Mexicans can be employed for a U.S. employer in the U.S. for up to three years, provided certain requirements are met. Extensions of stay in three-year increments are available.

3. What are the requirements to qualify for TN?

You must have a job offer from a U.S. entity in an occupation listed on NAFTA's Appendix 1603.D.1 (Annotated) list of professions and you must meet the entry-level requirements for the position. Consult our website for a complete list of occupations and the stated requirements for each, <http://www.jackson-hertogs.com/?p=4848>.

4. What positions are listed?

Many of the listed occupations are professional and require a baccalaureate degree, for example Accountant, Architect, Chemist, Economist, Engineer, Dentist, Physician, Teacher (college level) and Veterinarian.

5. What are the requirements?

For most occupations, you must have at least a B.S. degree or foreign degree equivalent. An equivalency cannot be based on experience alone or on a combination of experience and education. However, some listed occupations require only a two- or three-year post-secondary diploma and three years of experience (e.g., Computer Systems Analyst and Graphic Designer.) For a Management Consultant, either a B.S. degree or at least five years of experience as a consultant is required.

For some occupations, such as Architect and Occupational Therapist, possession of a state/provisional license may be sufficient to qualify.

You must meet the minimum requirements set forth for the occupation in which you are attempting to qualify for the TN classification.

6. How do I get TN status?

If you are a Canadian citizen, you can apply for TN admission at any Class A port of entry, a U.S. airport handling international traffic or at a U.S. pre-clearance/pre-flight station by presenting the TN application package. The required paper work includes a petition letter from the sponsoring employer, evidence of your qualification (educational documents (original & copy) and/or reference letters depending upon the classification), filing fees of \$50 (USD and subject to change) and evidence of Canadian citizenship. Please note that if you enter through a border crossing, you will also be charged an additional \$6 (subject to change) for each form I-94 issued. The CBP officer will review the paperwork and adjudicate the application for admission. If you are admitted, you will be issued a Form I-94 valid for the time specified on the employer letter (usually three years) and marked for multiple-entry. If you present your Canadian passport, your passport will be stamped with an admission stamp as well. You do not need a visa stamp issued by a U.S. Consulate abroad prior to applying for entry.

U.S. Customs and Border Patrol designated various ports of entry for optimized processing for Canadian citizens; see <https://www.cbp.gov/travel/canadian-and-mexican-citizens/traveling-tn-or-l1-visa-canada>). These designated ports of entry, including pre-flight inspection at an airport, aim to ensure more efficient processing for Canadians who are applying for their first TN under the North America Free Trade Agreement (NAFTA). First-time TN applicants may continue to go to any port of entry. However, while they are not required to go to one of the designated ports of entry, they are encouraged to do so in order to receive optimized processing. Additionally, it would be best to apply during normal business hours, and to avoid peak times if possible (for example, a Monday morning). It is also important to note that petitions may not be submitted ahead of time. Petitions submitted to a port of entry may only be adjudicated when the applicant is seeking entry into the United States. As such, applicants applying at a pre-flight inspection are strongly advised that they must allow for sufficient time for processing prior to the departure of their flight.

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If you are a Mexican citizen, you must apply for a TN visa at a U.S. Consulate before entering the U.S. Please see below for a list of the documents you will need for this application.

Please keep in mind that application procedures at different U.S. Consulates in Mexico vary, and you should check with Jackson & Hertogs or with the particular U.S. Consulate directly to confirm application procedures for that post. For example, the U.S. Consulate at Ciudad Juarez requires TN applicants to complete a consulate-specific application that has additional documentation requirements.

Once you are issued the TN visa, you can then apply for admission to the U.S. as a TN nonimmigrant. When you are admitted, you will be issued a Form I-94 that shows how long you have been admitted to the U.S. This document is controlling over your stay in the U.S.

If you are legally present in the U.S. either in TN status or another status that allows for a change of status, your employer can file a request for either an extension of your TN status or change to TN from another nonimmigrant status with the USCIS at the Lincoln, Nebraska, Service Center. This processing time varies but can take up to 90 days. Please note that premium processing of the petition is allowed, and, therefore, the processing time can be reduced to as little as two weeks for extra filing fees. Mexican nationals who travel after an extension or change of status is made will need to apply for a new visa if they travel internationally.

7. What documents will I need for admission as a TN nonimmigrant?

Canadian:

- Canadian passport or other evidence of Canadian Citizenship (NOTE: if traveling to/from countries other than the U.S., Canada or Mexico, you must have a Canadian passport)
- Job offer letter from a U.S. company (our firm prepares this letter for your company)
- The original and a copy of your baccalaureate diploma and/or license or other evidence of qualification necessary for the specific occupation (a copy is not acceptable)
- Work experience letters if applicable
- Money order in the amount of \$50 (this fee is subject to change)

Mexican:

- TN visa issued by a U.S. Consulate as described above.
- Mexican passport valid for at least six months beyond the date of requested admission
- Job offer letter from a U.S. company (our firm prepares this letter for your company)
- The original and a copy of your baccalaureate diploma and/or license or other evidence of qualification necessary for the specific occupation (a copy is not acceptable)
- Work experience letters, if applicable
- Visa application fee

8. What will be given to me to show my work status in the U.S.?

If you apply for admission at a land port of entry, the U.S. Customs and Border Protection (USCBP) inspector will give you a Form I-94, Entry/Departure Document, marked with the date and place of admission and a notation of TN (with Multiple Entry for Canadian citizens).

Note that travelers entering the United States through certain air or seaports may not be issued a paper Form I-94 Arrival/Departure Record. The Form I-94 serves as evidence that a nonimmigrant has been lawfully admitted to the United States. Nonimmigrants who do not receive a paper Form I-94 card at the port of entry are advised to print a copy of their Form I-94 record from the US Customs and Border Protection (CBP) website, <https://i94.cbp.dhs.gov/i94>.

9. How do I get a provisional I-94 up to 7 days in advance at a land border?

Travelers who plan to enter the U.S. through a land border can receive a provisional I-94 after submitting their application and \$6 payment through the I-94 website. The secure website accepts payment made with a credit card, debit card, direct debit, or through PayPal. The I-94 application will collect information that is otherwise collected in-person at the land port of entry, including:

- Biographic information (name, date of birth, country of citizenship)
- Passport details, visa details (if applicable) and
- Petition or Student and Exchange Visitor Program (SEVIS) number (if applicable).

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After submitting the application and payment online, the traveler must present themselves at a land port of entry within seven days of their application and submit biometrics, if applicable, and be interviewed by a CBP officer. Travelers should also be prepared to show evidence of their residence, employment, and/or travel plans, if requested by the CBP officer.

10. Can I change employers with a TN?

Yes, but the new TN employer must either file a new petition with the USCIS service center which must be approved prior to your commencing employment. Alternately, you may also submit a new TN application package by the new employer as set forth above and be re-admitted as a TN to work for that employer.

11. Can I start work with a new employer once the TN petition is filed with the USCIS?

No, "portability" does not apply to TNs. An actual approval notice (and visa from a consulate for Mexicans) must be issued by the USCIS, or you must travel and re-enter the U.S. and present a new TN application packet based on the new employment.

12. Can my spouse and children join me?

Yes, a spouse and unmarried children under the age of 21 qualify for admission under NAFTA, regardless of nationality. They will be issued a Form I-94 marked as "TD" (Trade Dependent) with the same expiration date of the principal's TN status. However, if your dependents are not Canadian citizens, they must apply for the TD visa at a U.S. Consulate prior to admission as a TD nonimmigrant. If you are a Canadian citizen, you will be required to apply for your TN admission first and then furnish your family members with a copy of your Form I-94 card/record to present with their visa applications to the U.S. Consulate.

13. Can my spouse or children work under TD?

No.

14. Can my spouse or children attend school under TD?

Yes.

15. What if I am laid off or quit my employment?

Just as with any other nonimmigrant temporary work status, if you are not employed with the sponsoring employer, you must depart the U.S. and may not stay indefinitely to locate other employment. Consult with one of our attorneys about your specific situation. Also, see our website for our Layoff FAQ, <http://www.jackson-hertogs.com/?p=5333>.

16. Can I get extensions of TN status?

Yes, in increments of three years.

17. Is there a limit to the number of TN extensions?

No, but the longer you remain on a TN, the more likely it is that CBP at the port of entry will question your temporary intent and may deny you entry despite having an unexpired Form I-94.

18. Can I apply for a green card while working with TN status?

Yes, but there is no "dual-intent" for TNs. This means that you must continue to maintain a permanent address in Canada or Mexico and prove that you have the intent to return permanently to Canada or Mexico while pursuing the Green Card. This can be difficult to prove particularly after your employer has filed the first stage of green card processing (i.e., an Alien Employment Certification) on your behalf. Many TNs choose to change status to H1B in order to avoid problems in traveling on a TN during the Green Card process.