

A Piece of America is Worth Its Weight in Gold™

First Published in *Global Perspectives*, Third Quarter 2009, National Association of REALTORS®, www.Realtor.org/global



By Stephen H. Davis, JD

What is a piece of America? It is owning property or a business. What is it worth? It is worth its weight in gold to foreign buyers. The novelist, Pearl S. Buck, said, "None who have always been free can understand the terrible fascinating power of the hope of freedom to those who are not free." You are not just selling property. You are fulfilling the American Dream.

Can the American Dream of Liberty become a reality to foreign buyers? The book, "*The National Association of REALTORS® 100 Years in Celebration of the American Dream*," published in honor of NAR's Centennial in 2008, points out that the early colonists came here not only for religious freedom, but also to acquire property, which to them, offered individual liberty. This is still true if real estate is connected to an active business or commercial enterprise.

Currently, the United States has treaties of commerce and free-trade agreements with 76 countries. The nonimmigrant E-2 Treaty Investor Visa is issued by American Embassies and Consulates General in those countries to qualified investors or essential workers of E-2 investor companies.

What are the basic requirements for the E-2 Treaty Investor Visa?

- Applicant is a citizen of one of the 76 treaty countries
- Applicant has invested or is actively in the process of investing
- Applicant is in a real and operating commercial enterprise; owning a home is not enough
- Applicant's capital investment is substantial (for that type business), approximately half the value of the investment must be "at risk"
- Investment is more than a marginal one solely for earning a living;
- Applicant is in a position to develop and direct the enterprise

- Applicant intends to depart the U.S. when the E-2 status terminates

What are the benefits of an E-2 Visa?

- Does not require that the investor prove he/she will return to buyer's home country
- Usually approved for 5 years and is renewable indefinitely provided the enterprise is viable
- Requires no fixed investment amount, must be reasonable for that type of business, is given 5 years to make a profit, is available at prices for non-millionaires
- Usually approved within 2 months or less abroad or 2 weeks or less in the U.S. (not a visa for U.S. re-entry) after the application is filed
- Allows spouse to receive employment authorization card
- Allows minor children to pay in-state tuition at state university

What does an immigration lawyer provide in obtaining the E-2 Visa?

- Works with clients in identifying and assembling the documents needed to determine if the case is within a reasonable range of probability of approval and qualifies under applicable federal regulations
- Analyzes facts, documents, law and plans strategy
- Prepares forms, index of exhibits, letter comparing the evidence to regulations
- Provides liaison with professional team of experts and then with governmental agency.

What practical tips do you recommend in working with Foreign Investors?

- There is no requirement for having employees, but some is better and more is best
- Investors should not sell their overseas home and business prematurely
- Investors with little or no entrepreneurial experience need special assistance
- A business plan is essential for start ups
- Any type of business is acceptable, but franchises are highly regarded by the government
- Involve the immigration lawyer at the beginning stage and before signing contracts
- Monitor the foreign currency exchange rate for major changes

How can you help a foreign Investor or buyer obtain an E-2 Visa?

Recognize when the potential for the visa exists. Obtain this basic information needed to consult with an immigration attorney:

1. The nationality of the investor, amount in U.S. dollars of capital available to start or purchase a business;
2. The value in U.S. dollars of the business, ability of the buyer to direct and control the investment enterprise;
3. The other owners' respective interests.

If you can make a foreign buyer's dream come true in America, then you are worth your weight in gold.

SOME EXAMPLES OF ACTUAL E-2 VISA CASES:

E-2 Investment Type	Amount Invested	U.S. Consulate	Processing Time
Tanning salon franchise	US\$200,000	Frankfurt, Germany	2 weeks
Campground franchise	US\$290,000	Bern, Switzerland	2 months
Fast food franchise	US\$1.8 Million	Rome, Italy	2 weeks
Pan Asian Restaurant	US\$120,000	Singapore	2 months
Rental houses	US\$200,000	Bishkek, Kyrgyzstan	2 months
Vacation cottages	US\$230,000	London, England, U.K.	2 months