

Information for Canadian Citizens About Working in the USA

U.S. immigration laws are very complex. This handout is meant to provide an overview of some of the options available to Canadian citizens wishing to work in the U.S. In no way is this intended to provide legal advice. For more information, please consult the links at the end of this handout and/or legal counsel.

Main ways for Canadian citizens to work in the USA

1. TN status

Under the NAFTA treaty, citizens of Canada and Mexico with appropriate qualifications can work in the U.S. under TN status in certain occupations such as: Economist; Lawyer; Librarian; Management Consultant; Research Assistant; Social Worker; College/University Teacher; Vocational Counsellor; Nutritionist; Occupational Therapist; Physiotherapist; Psychologist; Registered Nurse; Biochemist; Biologist; and Chemist.

For a complete list of qualifying occupations, see http://www.consular.canada.usembassy.gov/nafta_professions.asp. Qualifying individuals can work in the U.S. in one-year increments, renewable indefinitely.

You must have a job offer from an American employer to be able to apply for this visa.

2. H-1B work visa

U.S. Citizenship and Immigration Services (CIS, formerly INS) has a yearly quota of 65,000 bachelor's degree H-1B visas, with an additional 20,000 for advanced degree holders. The H-1B work visa is available to foreign nationals in possession of at least a bachelor's degree or its equivalent, **and** who will be working a job requiring at least a bachelor's degree.

The employer must submit the visa petition to the CIS.

This very popular work visa is quickly exhausted. However, there are alternatives to the H-1B and some employers qualify for an exemption. Exempt organizations include:

- Universities
- Non-profit organizations affiliated with universities, such as research facilities or hospitals
- Non-profit research organizations engaged primarily in basic or applied research
- Governmental research organizations

3. Work visas for Canadians studying in American universities (Optional Practical Training)

Post-graduation, F-1 visa students can work in the U.S. for up to 12 months using Optional Practical Training (OPT). An F-1 visa is a student work permit, which may be obtained after one year of full-time study is completed. In addition to the 12 months of OPT, F-1 graduates of 'STEM' degree programs (Science, Technology, Engineering, Mathematics) can obtain an additional 17 months of OPT, for a total of 29 months, if their employer registers for the federal 'E-verify' program.

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4. E-1 and E-2 status

Citizens of countries that have a treaty of trade or commerce with the United States, such as Canada, can qualify for E-1 or E-2 status. The individual must create or work for a company that is 50% owned by nationals of his/her country of origin and that substantially invests or trades with the U.S.

5. L-1 visa

For those who have worked for a company outside of the U.S. for at least one year and who will now work for a parent, branch, subsidiary or affiliate of the same company in the U.S. L-1 visas are available to individuals who work in managerial or executive positions, or positions which require specialized knowledge.

6. O visas

O visas are available for individuals with proven outstanding ability and contribution to their field, as evidenced by peer-reviewed publications, conference presentations, national or international prizes or awards, etc.

7. Green card

For individuals who possess a master's degree (whether U.S. or foreign) or who work in a job that requires at least a master's degree, pursuing a permanent resident green card may provide a basis for continued work in the U.S. Although the full green card process will take much longer than the one year duration of OPT, individuals with an advanced degree may be far enough along in the process to file for 'adjustment of status' and obtain a work authorization card in connection with their green card application, prior to expiration of the 12-month OPT. There may also be family-based options for permanent residence.

8. SWAP Working Holidays

For a fee varying from \$485 to over \$1,280, SWAP will process the paperwork required to obtain a work visa for the USA. It is up to the programme participant to find work. SWAP also offers support in the form of counsellors, local offices that provide listings of accommodation and work opportunities, and social activities with other SWAPpers. For more information, visit http://www.swap.ca/in_eng/index.aspx or consult free pamphlets available in the CAPS office.

There are three USA programmes for Canadian citizens:

- *SWAP USA Summer*
J1 visa for a maximum of four months that cannot be extended. Summer programme only. Casual work that does not have to be related to studies. No job offer required and repeat participation permitted.
- *USA Internship*
J1 visa for up to 12 months, can be extended to a maximum of 12 months. Year-round programme. Internship must be related to studies and offered prior to SWAP application. Cannot change internships. Open to post-secondary students and recent graduates within 12 months of graduation. Repeat participation allowed with a minimum of 90 days required between two visas.
- *Professional Career Training*
J1 visa for up to 18 months, 12 months for hospitality traineeships, can be extended to a maximum of an additional 18 months, 12 months for hospitality traineeships. Year

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round programme. Traineeship must be related to studies and offered prior to application. Open to professionals with a post-secondary degree/diploma and a minimum of one year work experience or a high-school diploma and five years work experience. Cannot change traineeships. Repeat participation allowed with a minimum of two years wait time between the two visas.

Other Resources

Going Global

<http://online.goinglobal.com/default.aspx>

Must be connected to the McGill network to access.

Going Global has an extensive database of employer profiles and over 100,000 worldwide job and internship listings. They also have 40 USA City Guides which include very extensive information on U.S. work visas. They also list H-1B visa companies within each city and also by all 50 states.

United States Embassy- Consular Services Canada in Montréal

See also the United States Embassy- Consular Services Canada in Montréal website for information on U.S. visas and how to apply.

<http://www.amcits.com/canada.asp>

Contact information and opening hours

<http://www.amcits.com/montreal.asp>

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See section 5.62 in the CAPS resource centre for books on working in the USA.