

Tips for Minimizing U.S. Immigration Problems:

Some general observations may help persons from other countries to better understand at least parts of the U.S. immigration process.

1. Citizens from other countries cannot expect to just come to America and somehow be allowed to work here or stay for with friends for some indefinite period. You cannot enter, or remain in, the US legally without complying with US laws. Those laws require that you fit into certain legally defined categories in order to visit, work here, or immigrate.
2. The vast majority of the employees of the various US agencies who deal with immigration issues are trying their best to do a difficult and complex job, often without adequate training or resources. The people you will deal with did not write the laws, (which sometimes may make no more sense to them than to you.) So, be patient with them and try to remain calm and courteous.
3. Always carry proof of your immigration status while in the U.S.
4. Persons outside the US will obtain their visas from a Department of State consulate or embassy abroad. However, the process to obtain an immigrant visa normally begins with the petitioning employer or family member filing a visa application with a US Citizenship and Immigration Services “service center” in the U.S. If approved, the application is then forwarded to the Department of State’s National Visa Center for further processing, including payment of State Department fees. When a visa becomes available, it is then sent to the proper U.S. consulate or embassy for final processing, including an interview.
5. Even if you are issued a visa to visit, or immigrate to, the US, the final decision maker in allowing you into the U.S. is not the US Department of State, or USCIS, **but the U.S. Customs and Border Protection inspector who** meets you at your U.S. port of entry.
6. It is not your visa that controls the length of your allowed stay in the U.S., but the **entry** stamp placed in your passport at your U.S. port of entry. (“I-94” cards are being discontinued.) If you are not an immigrant, your passport will be stamped with your status and any required departure date. Working without authorization, or remaining in the U.S. beyond any required departure date (or an authorized extension) will normally make you “out of status.” Do not allow yourself to become "out of status. “ You will then become subject to possible removal by U.S. “ICE,” (Immigration and Customs Enforcement), and in most cases, you will then have to return home and apply for a new visa, in order to change or adjust your status and return to the U.S.
7. U.S. law normally presumes that all persons coming to the US plan on staying here. So, if you are coming as a B-1/B-2 visitor, or other non-immigrant, you will usually have the burden of proving that you have ties to a residence abroad, and the intent to

return there. A wise traveler will always carry with him/her copies of documents relating to the purpose of the visit, the visitor's financial ability to pay living expenses while here, the existence of the visitor's foreign residence and evidence tending to show an intent to return to that home at the conclusion of the visit. That also applies equally to visa waiver travelers. These are the same types of proof you would have had to take to a US embassy or consulate to apply for a visa. Keep these documents, and a set of copies, with you when you arrive, and in a secure place throughout your stay.

8. If ICE decides later that you entered as a visitor but, at the time of your entry you really intended to stay, permanently, it could conclude that your entry was fraudulent, void your visa and pursue your removal from the U.S. Some other important misrepresentation, or unauthorized employment in the U.S., may cause a similar result.

9. "Visa Waivers? Many temporary ("Non Immigrant") visitors to the U.S. come from countries known as "visa waiver" states - meaning by treaty with the United States, their citizens do not have to apply for a US visitor (B1/2) visa to come here to visit. http://travel.state.gov/visa/temp/without/without_1990.html. They only need a valid passport. However to take advantage of this program, a citizen of a visa waiver country should:

- A. Have a "machine readable" passport, and
- B. Before traveling, register "on-line" with the US Customs and Border Protection's "ESTA" website (Electronic System for Travel Authorization) <https://esta.cbp.dhs.gov/esta/>

If you have any possible complications, like a prior criminal conviction, you might do well to go ahead with a formal visa application at a US consulate, or plan your trip through the nearest airport that has a US Customs and Border Protection "Pre-Flight" inspection station. This will minimize the potential for being denied entry to the U.S. after a long and expensive flight. However, "pre-flight" offices are only located in Canada, certain Caribbean locations and Dublin and Shannon, Ireland.

http://www.cbp.gov/xp/cgov/toolbox/contacts/preclear_locations.xml

Persons entering the U.S. on a visa waiver basis generally may not extend or adjust their immigration status in the U.S., and waive any right to contest their removal from the United States. Any person with any reason to believe he or she may want to change or extend status after arrival should apply for a regular visa. This is particularly true for prospective students coming to the U.S. to look at possible schools to attend and hoping later to obtain a student visa. Those persons must apply for a regular visitor visa, and be sure to tell the issuing U.S. consular officer about their education plans. The officer can then place an appropriate note on the visa identifying the person as an "intending student," which may allow subsequent change to student status in the U.S.

10. Business Visitors - "B-1." Visitors are generally not allowed to work while in

the U.S. However, there are many exceptions and qualifications to this rule. Some information about those exceptions can be found in the U.S. Department of State's Foreign Affairs Manual, (FAM) at 9 FAM 41.31 Notes 7 – 9

<http://www.state.gov/documents/organization/87206.pdf>

In general, the basis for most allowed exceptions will be that:

The arriving visitor will not receive a salary from a U.S. employer, and, if engaged in paid work, those services will be performed for an overseas employer, who is paying the visitor, and the overseas employer is providing the visitor's services under a contract with the US entity where the work will be performed.

Travelers arriving as business visitors, whether on a visa waiver basis or not, should be prepared to explain the nature of their trip, and document that it will only involve business activities allowed under 9 FAM 41.31. If the traveler and his or her employer have not properly planned the trip in question, the arriving visitor can find himself on the next plane back home, and possibly even confined "in custody", while waiting for the return flight.