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### Visas for Seasonal or Temporary Workers

We receive several questions from foreign nationals and US companies who are seeking to employ foreign non-professionals for positions in the United States. We also receive questions from persons abroad wanting to come into the US **or...** change their status while in the US to be able to work. Typically they want to know things like: Is there such a thing as a visa for people who don't have a Bachelors degree? What do I need to qualify for this visa? And how long can I stay in the US?

H2 visas are commonly referred to as "**work visas.**" These visas are available for US companies who are looking to hire unskilled alien workers to meet **temporary or seasonal needs** in positions which qualifies US workers are **not** available. Both the services from the foreign national and the need for such work must be **temporary**. Within the H-2 visa category, the H-2A visas are generally utilized for temporary or seasonal **agricultural** employment such as farmwork, sod harvesting, tree cutting, and orchard work. The H-2a visas are **not** subject to an annual cap.

The H-2b visas are generally used in the **labor** industry such as companies in construction or landscaping, in the **entertainment** industry for traveling shows such as circus, fair, and carnivals, **and** in the **tourist** industry for hotels, parks, athletic resorts, and restaurants. These H-2b visas however **are** subject to an annual cap of 66,000 per year.

To obtain the H-2a or H-2b visas for a temporary worker, the U.S. Company must prove that:

1. the position it is offering is temporary and based on a **cyclical, seasonal, or unusual** need,
2. the offered position has a **foreseen ending date**, and
3. that it obtained a temporary labor certification from the Department of Labor certifying that **no U.S. workers will be adversely affected** by the employment of a foreign worker.

The US Company must also certify that it will pay a wage **equal to or exceeding a prevailing minimum wage** to the foreign worker.

The H-2 visa is a very common visa for persons who want to enter and work in the US for a temporary period. The H-2 visa holder along with his or her family can enter and stay in the United States for up to 3 years. Once approved the h-2 visa is good for a maximum of **one year**. At that time, the visa may be extended for a maximum of **three years in one year increments**. Soon before the expiration of the h-2 visa authorized stay, the h-2 visa holder may either change to another visa from inside the United States or depart the US for at least six months and re-enter through another visa.

After a temporary labor certification is approved for the US Company, the US Company must file a petition on behalf of the non-professional foreign worker. The US Company may even be eligible to file a single petition *for multiple H-2b visa candidates* **if** the applicants will be performing the same services, will work in the same location, and are all included in the same labor certification.

If you are an US company seeking to hire a foreign worker for a temporary or seasonal term or you are an individual living abroad or inside the US in legal immigration status wishing to take a temporary employment position from a US company, you should begin the application process **at once**. Depending on the backlog at the USCIS Service center which receives your petition, the USCIS may take from 30 to 60 days to make a decision on the petition and the petition should not be filed more than 120 days prior to the beginning date of the offered employment. This leaves a very small window of time to go through the process. If you are an employer looking to hire employees for a seasonal or temporary period, contact a Business Immigration today.

#### **About the Author:**

Attorney Sonia M. Muñoz is a tri-lingual immigration attorney, who publishes weekly press releases and articles in both the English and Spanish media all across the country. She has appeared on both radio and television as an immigration expert. Aside from working as a Political Analyst for the CIA, Ms. Munoz has worked for the International Court of The Hague, co-authored a bench book for the U.S. Supreme Court, conducted and participated in conferences with State Senators and Representatives, and interviewed former President Bill Clinton. She is now the President of Immigration Legal Counsel, LLC. (ILC), a South Florida-based law firm, handling Business Immigration cases in all 50 states and Internationally. You can find more information about ILC and different methods of entry into the US on their website at [www.ilclawfirm.com](http://www.ilclawfirm.com), or by calling 1-866-482-VISA(8472). Initial Consultation is FREE.

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