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B-1 visas for Business and B-2 visas for Tourism

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There are three kinds of B visas that can be issued to a non-U.S. citizen. This includes:

1. B-1 visa for business;
2. B-2 visa for tourism/pleasure/medical; and
3. B-1/B-2 visa that covers the two above purposes

A B-1 visa holder is allowed to enter the United States for business purposes. Generally, the B-1 visa holder is not allowed to engage in active work. Rather, a B-1 allows the holder to do those activities that are *incident* to work. For example, meet with clients, attend litigation, or conclude a contract are all activities authorized under a B-1 visa. On the contrary, a B-2 visa allows the holder to enter the United States for non-business activities. This includes for tourism, visiting, pleasure, or medical purposes.

Generally, the B visa category grants exactly the same rights as a person entering the United States under the Visa Waiver Program ("VWP"). Therefore, if the purpose is either for activities incident to business or tourism purposes, then for many citizens from VWP countries that are eligible to travel under the VWP it may not be useful to apply for a B visa. Nevertheless, there are still many reasons why a citizen of a VWP country would want to apply for a B visa rather than travel under the VWP.

Some of these reasons could be:

1. The person is no longer eligible to travel under the VWP due to an overstay, refused entry to the United States, conviction of certain crimes, etc.;

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2. The person would like to spend more than 90 days in the United States on his or her next visit;
3. The person is intending to start-up or purchase a business in the United States and wants to minimize the risk of encountering issues at the U.S. border; or
4. The activity contemplated fits within a small exception where work is authorized under the B-1 visa category

Under U.S. regulations, there are certain categories of work that are specifically authorized. For example, foreign employees engaged in horse racing such as jockeys, groomers, etc. are authorized to work temporarily in the United States under a B visa. As another example, in certain cases foreign domestic employees that have been working for a least one year for their employer abroad are allowed to travel to the United States to continue performing work for their employer. What is reflected in both of these examples is that although work is authorized, it is still temporary in nature. The jockey that is coming to the United States will only be there temporarily for a few races before he or she departs. The domestic worker will eventually return to his or her foreign residence once his employer departs.

Nevertheless, given the often complex, time consuming, and costs for applying directly for a nonimmigrant work visa, finding an exception that permits this temporary work is extremely valuable for the person or his or her employer. Should one of these exceptions apply and the person meets the general requirements for a B visa, then he or she should apply for a B-1 visa. He or she should not travel to the United States merely on the VWP as this could create significant problems at U.S. Customs and even lead to refusal.

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For more information concerning B visas, please do not hesitate to contact the Law Firm of Shawn Quinn – Attorney at Law.