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effective solutions
for clients.



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If I am travelling to the United States for business purposes, do I need a work visa?

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While the definition of work is not well defined in US immigration law, it is permissible to enter the United States for various business visitor activities without a work visa. Generally, United States immigration law regards work as anything that would result in the production of goods or services within the United States for the benefit of a US entity which activity may displace a United States worker. Canadian citizens are allowed to enter the United States for business visitor purposes. The general test requires that an individual not be employed by a United States entity, the activity be associated with the international trade, and the benefit of the business visitor's activities should accrue to the employer in Canada. These criteria are typically utilized to assess whether or not the business activity will result in the displacement of a United States worker.

The Department of State in the United States, through the Foreign Affairs Manual, has identified various activities as permissible business visitor activities not requiring a work permit. These include amongst others: soliciting; negotiating contracts and taking order for the sale of foreign made goods; procuring or purchasing materials to be used in the production of goods outside the United States; providing after sales service pertaining to foreign made equipment; attending business meetings; attending trade shows or conferences; and market or product research for products which will be manufactured in Canada and sold within the United States.

Additionally, if you are a Canadian seeking to invest in a United States company, it is acceptable to make preliminary trips for purposes of establishing the investment. Individuals who are directors of US corporations are allowed to enter for business visitor meetings. Additionally, the North American Free Trade Agreement has also identified various business visitor activities which do not require work visas. These include, conducting research and design, marketing studies, sales and after sales service for Canadian made equipment.

Practically speaking, whether or not an individual will require a work visa typically depends upon where the benefit of the activity will accrue and where they are being compensated. For example, an individual entering the US to sell Canadian manufactured software will not require a work visa. This individual would typically be compensated by the Canadian employer and the benefit of his activities while in the United States would flow back to his Canadian employer. Management activities can be classified as both business visitor activities and could be requiring a work visa. If an individual is managing a function or employees within a United States entity, although periodically, this would constitute work and require a work visa.

Being admitted to the United States in business visitor status is an informal process which happen upon entry to the United States. Work visas can be obtained relatively quickly for Canadian citizens who qualify.

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