



The E-2 Visa Solution

For

Start-Ups

Foreign Entrepreneurs

Incubators & Accelerators



About The E-2 Visa

The E-2 visa is a very versatile visa that offers an attractive solution for foreign entrepreneurs who want to come to the US to launch a new business or to work for a start-up. Although China and India are not members of the E-2 Visa Treaty community, over 80 countries have signed the E-2 Visa Treaty with the US.

Under current regulations, E-2 visa petitioners are required to make a significant investment (\$150,000 is the usual amount) and must own at least 50% the US business. The E-2 business must be profitable and must also provide jobs to US citizens or to others who are legally entitled to work in the USA. The E-2 investment capital can be used to start a new US business or it can be used to acquire an existing business.

The E-2 visa does not require the E-2 visa holder to operate the business on a day to day basis. The E-2 visa holder must only be in a position to “direct and oversee the business”.

In addition, the E-2 visa regulations do not require the E-2 visa holder to be present in the US for any pre-set amount of time. This has very significant positive tax implications for E-2 visa holders who do not want to become subject to US taxes on their revenues outside the US.

Finally, a business owned by an E-2 visa holder can bring employees to the US who are from the same country as the E-2 visa holder. This means that once an E-2 visa has been approved and an E-2 business has been established in the US, that E-2 business can apply to bring the E-2 visa employees it needs in the US.

This last point makes it possible for Accelerators and Incubators to promote the use of the E-2 visa program to provide E-2 visas for foreign entrepreneurs so they can work on their start-up concepts in the US.



The E-2 Visa Strategy for Bringing Entrepreneurs to the U.S.

The key to using the E-2 visa to bring entrepreneurs to the US is to properly frame the original E-2 petition so that from the outset it will allow foreign entrepreneurs to be recruited and employed by the original E-2 visa company. It is important to note that most E-2 visa petitions are granted in order to allow the E-2 visa holder to operate a specific business, say a pizzeria in NYC, a bakery in Los Angeles or a clothing boutique in San Francisco. It would not be easy in such cases to later apply for an E-2 visa employee to come to the US to work on a start-up project.

However, if the original E-2 petition was prepared and obtained for a Business Management / Management Consulting firm then, in the future, that firm could justifiably bring new E-2 visa employees (entrepreneurs) to the US to work as consultants for their intended start-ups. The original E-2 Business Management / Management Consulting company would be paid for its consulting services by the various startups and those consulting fees would be used to pay the E-2 visa employees / entrepreneurs.

Based on this strategy, once the E-2 business is established in the US, the E-2 company can begin the process of evaluating startup entrepreneurs and their startup businesses. After startup entrepreneurs and their businesses have been identified, the E-2 business can begin the E-2 visa employee petition process to bring the selected foreign entrepreneurs to the US to develop their businesses under the umbrella of the E-2 Business Management / Management Consulting company.



The Problem of Obtaining The First E-2 Visa

There is still one problem that must be overcome before the original E-2 Business Management / Management Consulting company can qualify for an E-2 visa. Management Consulting firms do not usually qualify as E-2 businesses because they often fail to meet many of the E-2 visa requirements.

As service businesses, consulting companies do not generally require the expenditure of much capital. It is therefore hard for the E-2 visa applicant to justify and prove the expenditure of \$150,000 on such a business. In addition, these types of consulting businesses usually provide employment only for the intended E-2 visa holder and for no one else. Such businesses do not usually provide additional jobs in the U.S. and this is often a fatal flaw. Finally, the 5 year financial projections of management consulting firms are quite difficult to justify and therefore quite difficult to approve within the E-2 framework.

As a result, most immigration lawyers advise E-2 petitioners not to apply for an E-2 visa as a Management Consulting firm. However, with the help of proper planning there is a strategy that can be used to allow an E-2 visa to be granted for Business Management / Management Consulting company. To easily qualify for an E-2 visa, the owner of the Business Management / Management Consulting company must submit an E-2 petition with a business plan for the operation of a specific business in the U.S. If that business meets all of the requirements for the E-2 visa, then an E-2 visa can be approved.

The key to this E-2 visa strategy is to find a US business that will meet the requirements of the E-2 visa but will not obligate the E-2 visa holder to remain in the US indefinitely nor to become involved in its day to operations.



The Kingsfield Tutors E-2 Visa Solution

Fortunately there is a simple solution to this problem and Kingsfield Tutors provides that solution.

As noted previously, the E-2 visa holder does not need to operate the E-2 business on a day to day basis. The E-2 visa holder is only required to “be in a position to direct and oversee” the E-2 business. In addition, the E-2 visa holder needs to be a majority owner of the E-2 business, not a 100% owner. These unique characteristics of the E-2 visa requirements make it possible for E-2 visa applicant to enter into a joint venture with an experienced US company that will be responsible for the day to day operations of the E-2 visa business.

Kingsfield Tutors provides the joint venture business on which the E-2 visa application can be based and approved. By using the E-2 investment to fund the opening of a new Kingsfield Tutors business location, the Business Management / Management Consulting company can now qualify for an E-2 visa based on the company’s first management project, the new Kingsfield Tutors location. As part of this first project, Kingsfield Tutors and the E-2 Business Management / Management Consulting company will enter into an 85% / 15% joint venture to own and operate a new Kingsfield Tutors location.

The E-2 Business Management / Management Consulting company will own a majority of the new tutoring business but Kingsfield Tutors will provide the day to day operational expertise. This will relieve the E-2 visa holder of the burden of remaining in the US and overseeing the day to day operations of the new US business



Why The Kingsfield Tutors Solution Works

The Kingsfield Tutors joint venture model simultaneously solves multiple E-2 visa related issues:

1. The E-2 visa business plan for the new Kingsfield Tutors meets all of the capital expenditure, job creation / employment and financial projection requirements of the E-2 visa application process.
2. The E-2 visa holder will not need to be present to operate the new Kingsfield Tutor business and can therefore pursue other business interests in the US or outside the US.
3. The E-2 visa holder will not need to remain in the US for extended periods of time and will not become liable for US taxes on income earned outside the US.
4. The E-2 visa Management Consulting company will own a high quality, operating business in the US and will be free to bring new employees / entrepreneurs to the US to work on other management projects / start-ups.
5. The E-2 visa holder will significantly reduce the risk of jeopardizing the E-2 visa by investing in a Kingsfield Tutors unit, an established business model that is managed by professionals. The alternative is to invest the E-2 visa funds in a much more risky start-up puts the E-2 visa at risk if the business fails.



Moving Forward

The E-2 visa opens the door to creating a unique opportunity to bring foreign entrepreneurs to the US. Unlike the H-1B, L-1A or EB-5 visas that are either much more complex or much more expensive to obtain, a properly prepared E-2 visa petition can be approved in a matter of weeks rather than months or years.

The key to using the E-2 visa to bring foreign entrepreneurs to the US is to start with one foreign national who has the funds and the desire to apply for an E-2 visa for a Business Management / Management Consulting company. Once the applicant's E-2 visa has been approved, the new US company can begin to plan how and when it will bring foreign entrepreneurs to the US.

As more and more foreign entrepreneurs seek to relocate to the US to launch their new business venture, Kingsfield Tutors' E-2 visa strategy offers a simple and effective solution to the visa issue. Kingsfield Tutors makes it possible for a foreign national to obtain an E-2 visa for a company that will in turn be qualified to bring multiple foreign entrepreneurs to the US on their own E-2 employee visas.

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E-2 Visa for Startups - Strategy Chart

