



## TN OVERVIEW

The North American Free Trade Agreement (NAFTA) creates special economic and trade relationships for the United States, Canada and Mexico. Under the immigration-related provisions of NAFTA, a designated group of professionals are admissible under NAFTA in the TN nonimmigrant visa category. The nonimmigrant NAFTA Professional (TN) visa allows citizens of Canada and Mexico to work in the United States in these designated occupations as long as they meet the eligibility requirements specified for the particular occupation.

Unlike the H1B visa category, the TN has no congressionally imposed cap or limit. As such, employers who have a candidate that potentially qualifies for TN status may be able to bring the candidate on board in a much more immediate timeframe. In addition, the procedures for securing a TN admission either at a border (Canadian nationals) or at the consulate (Mexican nationals) are also much faster than the H1B visa procedure which requires the securing of USCIS petition approval prior to entry.

The below overview addresses:

- Summary and Scope of TN Nonimmigrant Visa
- Younossi Law's Processing Steps for TN Applications
  - Canadian Nationals
  - Mexican Nationals
- Relatedness of Academic Degree
- List of NAFTA TN Professional Occupations and Eligibility Requirements

## **SUMMARY AND SCOPE OF TN NONIMMIGRANT VISA**

### **ELIGIBILITY:**

Professionals of Canada or Mexico may work in the U.S. in TN status under the following conditions:

- Applicant must be a citizen of Canada or Mexico;
- The TN position in the U.S. is a profession is on the NAFTA list of occupations;
- The Canadian or Mexican TN applicant is to work in a prearranged full-time or part-time job, for a U.S. employer. Qualifying professionals who are self-employed can work for U.S. employers if a service contract exists between the self-employed professional and the U.S. company;
- Professional Canadian or Mexican citizen has the qualifications of the profession as outlined in the NAFTA list of occupations.

The application procedures for Canadian and Mexican nationals differ and will be discussed in more detail below.

### **AUTHORIZED PERIODS OF STAY:**

The maximum period of admission into the U.S is 3 years. The US Citizenship and Immigration Services (USCIS) grants extensions of stay in time amounts of 3 years. While there is no stated limit on the number of years a TN visa holder can stay in the United States, the longer one remains in the U.S. in TN status, the less likely U.S. immigration officials will deem that the TN applicant has no immigrant intent.

### **NO DUAL INTENT:**

The TN nonimmigrant visa is a strictly nonimmigrant intent visa. As such, TN employees may NOT have immigrant intent while they hold TN status in the United States which impacts the ability to pursue permanent residency while in TN status. Consequently, port-of-entry or consulate officers reviewing an applicant's TN eligibility may also review the "temporariness" of the TN position and period of TN stay by making sure the TN assignment in the U.S. will end at a "predictable time" and that the TN employee will depart the U.S. upon the completion of the assignment.

While TN employees are not specifically required to maintain a foreign residence while in TN status, the maintenance of such a residence or other significant ties to the home country can be a criteria for port-of-entry or consulate officers to review in determining the immigrant intent of a TN applicant.

**SPOUSES AND DEPENDENT CHILDREN UNDER AGE 21:**

The spouses and dependent children under age 21 are eligible for dependent TD status. The TD is NOT a employment authorized visa.

**EMPLOYER SPONSORSHIP:**

TN status requires a sponsoring U.S. employer. Qualifying professionals who are self-employed can work for U.S. employers if a service contract exists between the self-employed professional and the U.S. company. Once an employer indicates they wish to pursue sponsorship of a TN candidate, the employer should notify Younossi Law so that relevant fact gathering information may be sent both to the employer and the TN candidate.

**STRIKE PROVISIONS:**

NAFTA contains “strike” provisions that may impact TN admissions. If the Department of Labor (DOL) certifies to or informs Department of Homeland Security officials that a strike or other dispute involving a work stoppage is in progress, and the TN applicants admission/employment may adversely affect the settlement of the labor dispute or the employment of any person involved in the dispute, the TN may be denied. If the TN applicant has already commenced employment in TN status, the TN employee will not be forced to depart the United States, but may be subject to strict adherence of the TN regulations. Again, the strike provisions only apply if the DOL certifies the strike or labor dispute.

**YOUNOSSI LAW’S PROCESSING STEPS FOR TN APPLICATION FILINGS**

**TN APPLICATIONS AT THE PORT-OF-ENTRY OR CONSULATE:** For TN applications that will be presented for port-of-entry or consulate adjudication, below is an outline of Younossi Law’s processing of the application.

**Step 1-- Initiation & Fact Gathering:** Upon employer’s request to initiate a TN application, Younossi Law will send out fact gathering information to the employer and TN candidate.

**Step 2-- Preparation of and Sending Documents to Employer for Signature:** Younossi Law will assess the fact gathering information and supporting documentation and apprise the employer of any issues or concerns. Younossi Law will then forward a TN application package to the employer for signature. The application package will consist of instructions to the TN applicant, a Notice of Attorney Representation, a detailed Employer Support Letter which describes the employer, the position, and the TN eligibility and qualifications. The package will also contain copies of the educational

documents and evaluations (if applicable) as well as any other documentation verifying qualifications for the TN employment position. The package also contains photocopies of documentation of Canadian or Mexican citizenship.

Once the employer signs the documentation, the TN package can be sent to the TN candidate for presentation either at a port-of-entry or at a consulate for adjudication.

- **Canadian Nationals:** Canadian nationals are visa exempt and thus are not required to apply for a TN visa stamp at the U.S. consulate prior to admission. Some exceptions may exist for dependent applicants who may not hold Canadian citizenship and Younossi Law will address those issues as they arise. However, in most cases, nationals of Canada are able to present the prepared TN package at a port-of-entry (land crossing or at a designated airport pre-flight inspection office in Canada).

When a Canadian national presents the TN package at a port-of-entry with the required fee, the port-of-entry officer will adjudicate the TN and issue the TN applicant a Form I-94 Arrival and Departure Record (I-94 card) which indicates TN status, the date of entry, and the date of expiration of the TN status. It is key that the TN applicant forward Younossi Law a copy of the I-94 card after each entry or at least advise Younossi Law of each re-entry into the U.S. so that status and expiration dates may be accurately tracked for employment authorization and status purposes.

- **Mexican Nationals:** Mexican nationals are required to apply for a TN visa stamp at a U.S. consulate in order to facilitate their entry into the U.S. in TN status. The TN visa stamp application process will vary per consulate, but typically entails an appointment be made with the consulate, submission of Form 160 (or Form DS 156 and DS 157 for consulates that still use these versions of the forms---applicants should check directly with the consulate as to which form is required by the particular consulate) as well as an in-person interview. Photo requirements, payment of visa fees, as well as passport validity requirements will also apply as with any visa stamp application. Visa issuance timeframes also vary by consulate.

When a Mexican national presents the TN application package as well as the other required consulate forms, the nonimmigrant visa officer at the consulate will determine whether the eligibility requirements are met for TN visa issuance. Once the TN visa stamp is issued in the passport, the TN candidate may use the same to enter the U.S. in valid TN status and commence employment. As is the case with Canadian nationals, at entry, the port-of-entry officer will issue the TN applicant a Form I-94 Arrival and Departure Record (I-94 card) which indicates

TN status, the date of entry, and the date of expiration of the TN status. It is key that the TN applicant forward Younossi Law a copy of the I-94 card after each entry or at least advise Younossi Law of each re-entry into the U.S. so that status and expiration dates may be accurately tracked for employment authorization and status purposes.

**TN EXTENSION OF STAY PETITIONS FILED WITH USCIS:** TN Extension Petitions are filed with the USCIS. While the same eligibility described above applies, instead of making the application directly with a consulate or at a port-of-entry, the TN employer must file a TN extension petition with USCIS. In order for the TN extension to be considered a timely filing, the extension petition must be received by USCIS prior to the expiration date of the current status. Even if the TN Extension petition is not approved prior to the current TN expiration date, the TN employee has 240 days of work authorized stay in the United States by virtue of the timely extension petition filing taking place.

Upon employer's request to initiate a TN Extension petition, Younossi Law will send out fact gathering information to the employer and TN candidate. Upon receipt of completed fact gathering documents, Younossi Law will prepare TN extension documentation and send it to the employer for signature. Upon receipt of signed documents, Younossi Law will file the TN Extension petition with USCIS. USCIS processing time is approximately 2-3 months. However, the USCIS also allows premium processing of the petition which entails the submission of a \$1000 premium processing fee (in addition to regular TN fees) in order to obtain an adjudication within 15 days of USCIS' receipt of the petition filing.

### **RELATEDNESS OF ACADEMIC DEGREE**

Most TN professional occupations require a bachelors degree or equivalent academic credential. Although not specifically outlined in the NAFTA list of TN professional occupations, when a bachelors degree is required for the position, most port-of-entry or consulate officers will want to see that the TN applicant possesses a degree that is related to the TN occupation and the job duties that will be performed. For example, an applicant applying for TN admission for the professional position of Accountant may not be approved if the candidate possesses a bachelors degree in engineering. If your TN candidate has an unrelated degree, please contact Younossi Law to discuss strategies for application preparation.

**LIST OF NAFTA TN PROFESSIONAL OCCUPATIONS  
AND ELIGIBILITY REQUIREMENTS**

<b>PROFESSION <sup>1</sup></b>	<b>MINIMUM EDUCATION REQUIREMENTS AND ALTERNATIVE CREDENTIALS</b>
<b>General</b>	
Accountant	Baccalaureate or Licenciatura Degree; or C.P.A., C.A., C.G.A. or C.M.A.
Architect	Baccalaureate or Licenciatura Degree; or state/provincial license <sup>2</sup>
Computer Systems Analyst	Baccalaureate or Licenciatura Degree; or PostSecondary Diploma <sup>3</sup> or PostSecondary Certificate <sup>4</sup> , and three years experience
Disaster Relief Insurance Claims Adjuster (claims Adjuster employed by an insurance company located in the territory of a Party, or an independent claims adjuster)	Baccalaureate or Licenciatura Degree, and successful completion of training in the appropriate areas of insurance adjustment pertaining to disaster relief claims; or three years experience in claims adjustment and successful completion of training in the appropriate areas of insurance adjustment pertaining to disaster relief claims.
Economist	Baccalaureate or Licenciatura Degree
Engineer	Baccalaureate or Licenciatura Degree; or state/provincial license
Forester	Baccalaureate or Licenciatura Degree; or state/provincial license
Graphic Designer	Baccalaureate or Licenciatura Degree; or PostSecondary Diploma or PostSecondary Certificate, and three years experience
Hotel Manager	Baccalaureate or Licenciatura Degree in hotel/restaurant management; or PostSecondary Diploma or PostSecondary Certificate in hotel/restaurant management, and three years experience in hotel/restaurant management
Industrial Designer	Baccalaureate or Licenciatura Degree; or PostSecondary Diploma or PostSecondary Certificate, and three years experience
Interior Designer	Baccalaureate or Licenciatura Degree; or PostSecondary Diploma or PostSecondary Certificate, and three years experience
Land Surveyor	Baccalaureate or Licenciatura Degree; or state/provincial/federal license
Landscape Architect	Baccalaureate or Licenciatura Degree
Lawyer (including Notary in the Province of Quebec)	LL.B., J.D., LL.L., B.C.L. or Licenciatura Degree (five years); or membership in a state/provincial bar
Librarian	M.L.S. or B.L.S. (for which another Baccalaureate or Licenciatura Degree was a prerequisite)
Management Consultant	Baccalaureate or Licenciatura Degree; or equivalent professional experience as established by statement or professional credential attesting to five years experience as a management consultant, or five years experience in a field of specialty related to the consulting agreement
Mathematician (including Statistician)	Baccalaureate or Licenciatura Degree

Range Manager/Range Conservationalist	Baccalaureate or Licenciatura Degree
Research Assistant (working in a post-secondary educational institution)	Baccalaureate or Licenciatura Degree
Scientific Technician/Technologist <sup>5</sup>	Possession of (a) theoretical knowledge of any of the following disciplines: agricultural sciences, astronomy, biology, chemistry, engineering, forestry, geology, geophysics, meteorology or physics; and (b) the ability to solve practical problems in any of those disciplines, or the ability to apply principles of any of those disciplines to basic or applied research
Social Worker	Baccalaureate or Licenciatura Degree
Sylviculturist (including Forestry Specialist)	Baccalaureate or Licenciatura Degree
Technical Publications Writer	Baccalaureate or Licenciatura Degree; or PostSecondary Diploma or PostSecondary Certificate, and three years experience
Urban Planner (including Geographer)	Baccalaureate or Licenciatura Degree
Vocational Counsellor	Baccalaureate or Licenciatura Degree

**Medical/Allied Professional**

Dentist	D.D.S., D.M.D., Doctor en Odontologia or Doctor en Cirugia Dental; or state/provincial license
Dietitian	Baccalaureate or Licenciatura Degree; or state/provincial license
Medical Laboratory Technologist (Canada)/Medical Technologist (Mexico and the United States) <sup>6</sup>	Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma or Post-Secondary Certificate, and three years experience
Nutritionist	Baccalaureate or Licenciatura Degree
Occupational Therapist	Baccalaureate or Licenciatura Degree; or state/provincial license
Pharmacist	Baccalaureate or Licenciatura Degree; or state/provincial license
Physician (teaching or research only)	M.D. or Doctor en Medicina; or state/provincial license
Physiotherapist/Physical Therapist	Baccalaureate or Licenciatura Degree; or state/provincial license
Psychologist	State/provincial license; or Licenciatura Degree
Recreational Therapist	Baccalaureate or Licenciatura Degree
Registered Nurse	State/provincial license; or Licenciatura Degree
Veterinarian	D.V.M., D.M.V. or Doctor en Veterinaria; or state/provincial license

**Scientist**

Agriculturist (including Agronomist)	Baccalaureate or Licenciatura Degree
Animal Breeder	Baccalaureate or Licenciatura Degree
Animal Scientist	Baccalaureate or Licenciatura Degree
Apiculturist	Baccalaureate or Licenciatura Degree
Astronomer	Baccalaureate or Licenciatura Degree

Biochemist	Baccalaureate or Licenciatura Degree
Biologist	Baccalaureate or Licenciatura Degree
Chemist	Baccalaureate or Licenciatura Degree
Dairy Scientist	Baccalaureate or Licenciatura Degree
Entomologist	Baccalaureate or Licenciatura Degree
Epidemiologist	Baccalaureate or Licenciatura Degree
Geneticist	Baccalaureate or Licenciatura Degree
Geologist	Baccalaureate or Licenciatura Degree
Geochemist	Baccalaureate or Licenciatura Degree
Geophysicist (including Oceanographer in Mexico and the United States)	Baccalaureate or Licenciatura Degree
Horticulturist	Baccalaureate or Licenciatura Degree
Meteorologist	Baccalaureate or Licenciatura Degree
Pharmacologist	Baccalaureate or Licenciatura Degree
Physicist (including Oceanographer in Canada)	Baccalaureate or Licenciatura Degree
Plant Breeder	Baccalaureate or Licenciatura Degree
Poultry Scientist	Baccalaureate or Licenciatura Degree
Soil Scientist	Baccalaureate or Licenciatura Degree
Zoologist	Baccalaureate or Licenciatura Degree

**Teacher**

College	Baccalaureate or Licenciatura Degree
Seminary	Baccalaureate or Licenciatura Degree
University	Baccalaureate or Licenciatura Degree

<sup>1</sup> A business person seeking temporary entry under this Appendix may also perform training functions relating to the profession, including conducting seminars.

<sup>2</sup> "State/provincial license" and "state/provincial/federal license" mean any document issued by a state, provincial or federal government, as the case may be, or under its authority, but not by a local government, that permits a person to engage in a regulated activity or profession.

<sup>3</sup> "Post-Secondary Diploma" means a credential issued, on completion of two or more years of postsecondary education, by an accredited academic institution in Canada or the United States.

<sup>4</sup> "Post-Secondary Certificate" means a certificate issued, on completion of two or more years of postsecondary education at an academic institution, by the federal government of Mexico or a state government in Mexico, an academic institution recognized by the federal government or a state government, or an academic institution created by federal or state law.

<sup>5</sup> A business person in this category must be seeking temporary entry to work in direct support of professionals in agricultural sciences, astronomy, biology, chemistry, engineering, forestry, geology, geophysics, meteorology or physics.



<sup>6</sup> A business person in this category must be seeking temporary entry to perform in a laboratory chemical, biological, hematological, immunologic, microscopic or bacteriological tests and analyses for diagnosis, treatment or prevention of disease.

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Should further questions arise regarding TN classification, please contact the immigration professional at Younossi Law with whom you usually work to discuss.