

## INSTRUCTIONS

### Purpose of This Form.

This form is for use by an entrepreneur to petition for status as an immigrant to the U.S.

**Who May File.** You may file this petition for yourself if you have established a new commercial enterprise

- .in which you will engage in a managerial or policy-making capacity, and
- .in which you have invested or are actively in the process of investing the amount required for the area in which the enterprise is located, and
- .which will benefit the U.S. economy, and
- .which will create full-time employment in the U.S. for at least 10 U.S. citizens, permanent residents, or other immigrants authorized to be employed, other than yourself, your spouse, your sons or daughters, or any nonimmigrant aliens.

The establishment of a new commercial enterprise may include:

- .creation of a new business;
- .the purchase of an existing business with simultaneous or subsequent restructuring or reorganization resulting in a new commercial enterprise; or
- .the expansion of an existing business through investment of the amount required, so that a substantial change (at least 40%) in either the net worth, number of employees, or both, results.

The amount of investment required in a particular area is set by regulation. Unless adjusted downward for targeted areas or upward for areas of high employment, the figure shall be \$1,000,000. You may obtain this information from an INS office or American consulate.

### General Filing Instructions.

Please answer all questions by typing or clearly printing in black ink. Indicate that an item is not applicable with "N/A". If an answer to a question is "none," please so state. If you need extra space to answer any item, attach a sheet of paper with your name and your A#, if any, and indicate the number of the item. Your petition must be properly signed and filed with the correct fee.

### Initial Evidence Requirements.

The following evidence must be filed with your petition:

- .Evidence that you have established a lawful business entity under the laws of the jurisdiction in the U.S. in which it is located, or, if you have made an

investment in an existing business, evidence that your investment has caused a substantial (at least 40%) increase in the net worth of the business, the number of employees, or both.

Such evidence shall consist of copies of articles of incorporation, certificate of merger or consolidation, partnership agreement, certificate of limited partnership, joint venture agreement, business trust agreement, or other similar organizational document; a certificate evidencing authority to do business in a state or municipality or if such is not required, a statement to that effect; or evidence that the required amount of capital has been transferred to an existing business resulting in a substantial increase in the net worth or number of employees, or both. This evidence must be in the form of stock purchase agreements, investment agreements. Certified financial reports, payroll records or other similar instruments, agreements or documents evidencing the investment and the resulting substantial change.

.Evidence, if applicable, that your enterprise has been established in a targeted employment area. A targeted employment area is defined as a rural area or an area which has experienced high unemployment of at least 150% of the national average rate. A rural area is an area not within a metropolitan statistical area or not within the outer boundary of any city or town having a population of 20,000 or more.

.Evidence that you have invested or are actively in the process of investing the amount required for the area in which the business is located. Such evidence may include, but not be limited to copies of bank statements, evidence of assets which have been purchased for use in the enterprise, evidence of property transferred from abroad for use in the enterprise, evidence of monies transferred or committed to be transferred to the new commercial enterprise in exchange for shares of stock, any loan or mortgage, promissory note, security agreement, or other evidence of borrowing which is secured by assets of the petitioner.

.Evidence that capital is obtained through lawful means, the petition must be accompanied, as applicable, by: Foreign business registration records, tax returns of any kind filed within the last five years in or outside the United States, evidence of other sources of capital, or certified copies of any judgment, pending governmental civil or criminal actions, or private civil actions against the petitioner from any court in or outside the United States within the past fifteen years.

.Evidence that the enterprise will create at least 10 full-time positions for U.S. citizens, permanent residents, or aliens lawfully authorized to be employed (except) yourself, your spouse, sons, or daughters, and any nonimmigrant aliens). Such evidence may consist of copies of relevant tax records, Form I-9, or other similar documents, if the employees have already been hired, or a business plan showing when such employees will be hired within the next two years.

.Evidence that you are or will be engaged in the management of the enterprise, either through the exercise of day-to-day managerial control or through policy formulation. Such evidence may include a statement of your position title and a complete description of your duties, evidence that you are a corporate officer or hold a seat on the board of directors, or if the new enterprise is a partnership, evidence that you are engaged in either direct management or policy-making activities.

**Copies.**

If, these instructions state that a copy of a document may be filed with this application, and you choose to send us the original, we may keep that original for our records

**Where to File.**

The petition must be filed with the INS Service Center having jurisdiction over the area in which the new commercial enterprise will be principally doing business. If the enterprise is in Alabama, Connecticut, Delaware, District of Columbia, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, Vermont, Virgin Islands, Virginia, or West Virginia, mail this petition to USINS, Eastern Service Center, 75 Lower Welden Street, St. Albans, VT 05479-0001.

If the enterprise is in Arizona, California, Guam, Hawaii, or Nevada, mail this petition to USINS, Western Service Center, P.O. Box 30040, Laguna Niguel, CA 92607-0040.

If the enterprise is elsewhere in the U.S., mail this petition to USINS, Northern Service Center, 100 Centennial Mall North, Room, B-26, Lincoln, NE 68508.

**Fee.**

The fee for this petition is \$140.00. The fee must be submitted in the exact amount. It cannot be refunded. DO NOT MAIL CASH. All checks and money orders must be drawn on a bank or other institution located in the United States and must be payable in United States currency. The check or money order should be made payable to the Immigration and Naturalization Service, except that:

.If you live in Guam, and are filing this application in Guam, make your check or money order payable to the "Treasurer, Guam."

.If you live in the Virgin Islands, and are filing this application in the Virgin Islands, make your check or money order payable to the "Commissioner of Finance of the Virgin Islands." Checks are accepted subject to collection. An uncollected check will render the application and any document issued invalid. A

charge of \$5.00 will be imposed if a check in payment of a fee is not honored by the bank on which it is drawn.

**Processing Information.**

*Acceptance.* Any petition that is not signed or is not accompanied by the correct fee will be rejected with a notice that it is deficient. You may correct the deficiency and resubmit the petition. However, a petition is not considered properly filed until accepted by the Service. A priority date will not be assigned until the petition is properly filed.

*Initial processing.* Once the petition has been accepted, it will be checked for completeness, including submission of the required initial evidence. If you do not completely fill out the form, or file it without required initial evidence, you will not establish a basis for eligibility, and we may deny your petition.

*Requests for more information or interview.* We may request more information or evidence or we may request that you appear at an INS office for an interview. We may also request that you submit the originals of any copy. We will return these originals when they are no longer required.

*Approval.* If you have established that you qualify for investor status, the petition will be approved. If you have requested that the petition be forwarded to an American consulate abroad, the petition will be sent there unless that consulate does not issue immigrant visas. If you are in the U.S. and state that you will apply for adjustment of status, and the evidence indicates that you are not eligible for adjustment, the petition will be sent to an American consulate abroad. You will be notified in writing of the approval of the petition and where it has been sent, and the reason for sending it to a place other than the one requested, if applicable.

*Meaning of petition approval.* Approval of a petition shows only that you have established that you have made a qualifying investment. It does not guarantee that the American Consulate will issue the immigrant visa. There are other requirements which must be met before a visa can be issued. The American Consulate will notify you of those requirements. Immigrant status granted based on this petition will be conditional. Two years after entry the conditional investor will have to apply for the removal of conditions based on the ongoing nature of the investment.

**Denial.** If you have not established that you qualify, the petition will be denied. You will be notified in writing of the reasons for the denial.

**Penalties.**

If you knowingly and willfully falsify or conceal a material fact or submit a false

document with this request, we will deny the benefit you are filing for, and may deny any other immigration benefit. In addition, you will face severe penalties provided by law, and may be subject to criminal prosecution.

**Privacy Act Notice.**

We ask for the information on this form, and associated evidence, to determine if you have established eligibility for the immigration benefit you are filing for. Our legal right to ask for this information is in 8 USC 1184, 1255 and 1258. We may provide this information to other government agencies. Failure to provide this information, and any requested evidence, may delay a final decision or result in denial of your request.

**Paperwork Reduction Act Notice.**

We try to create forms and instructions that are accurate, can be easily understood, and which impose the least possible burden on you to provide us with information. Often this is difficult because some immigration laws are very complex. Accordingly, the reporting burden for this collection of information is computed as follows: (1) learning about the law and form, 15 minutes; (2) completing the form, 25 minutes; and (3) assembling and filing the application, 35 minutes, for an estimated average of 1 hour and 15 minutes per response. If you have comments regarding the accuracy of this estimate, or suggestions for making this form simpler, you can write to both the Immigration and Naturalization Service, 425 I Street, N.W., Room 5304, Washington, D.C. 20536; and the Office of Management and Budget, Paperwork Reduction Project, OMB No. 1115-0081, Washington, D.C. 20503.