



News & Types: Client Advisories

Visa, I-94, I-797 and Status—What Do They Mean?

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Practices: Immigration

Nonimmigrants (individuals who enter the U.S. on a temporary basis) frequently use the term visa to refer to everything from their immigration status to their immigration documents. However, using the term visa interchangeably with the Form I-94 and the Form I-797, or to refer to one's immigration status, is incorrect. While the combination of these documents is often critical to establishing a nonimmigrant's lawful stay in the U.S., they each work independently and serve a different purpose in the immigration process. Understanding the different role that each document plays is critical to ensure that the nonimmigrant maintains a clean immigration record, free of violations, at all times.

IMMIGRATION STATUS

Have you ever been questioned about your immigration status and were not sure how to respond? Immigration status in the nonimmigrant context generally refers to the lawful immigration category or classification by which a nonimmigrant last entered the U.S. (e.g., L-1A or E-2, etc.). Sometimes, people may enter the U.S. in one category and apply to change to a different category with the U.S. Citizenship and Immigration Services (USCIS). For example, someone may enter as an F-1 student, and change to an H-1B worker. There are more than 20 nonimmigrant visa categories. Each category has specific requirements and limits, including limits on the length of stay in the U.S. The period of stay varies for different nonimmigrant classifications. A nonimmigrant's immigration status remains valid in the U.S. as long as the individual has an unexpired Form I-94 (explained below), and has not violated the terms and conditions of his or her stay in the U.S. It is the responsibility of the nonimmigrant to ensure that he or she is maintaining lawful immigration status at all times. Failure to maintain valid immigration status can have severe negative consequences.

VISA

A citizen of a foreign country who seeks to enter the U.S. must first obtain a U.S. visa, which is a stamp that is placed in the nonimmigrant's passport.[1] A U.S. visa allows nonimmigrants to seek entry to the U.S. at a port of entry, airport, or land border crossing. The U.S. Customs and Border Protection (CBP) is responsible for determining whether the nonimmigrant should be admitted and how long the nonimmigrant can remain in the U.S. A visa does not guarantee entry into the U.S. However, it does indicate that a consular officer at a U.S. Embassy or Consulate abroad has determined that the nonimmigrant is eligible to seek entry for a specific purpose. Visas are valid from the date of issuance until the date of expiration, and a nonimmigrant can travel to

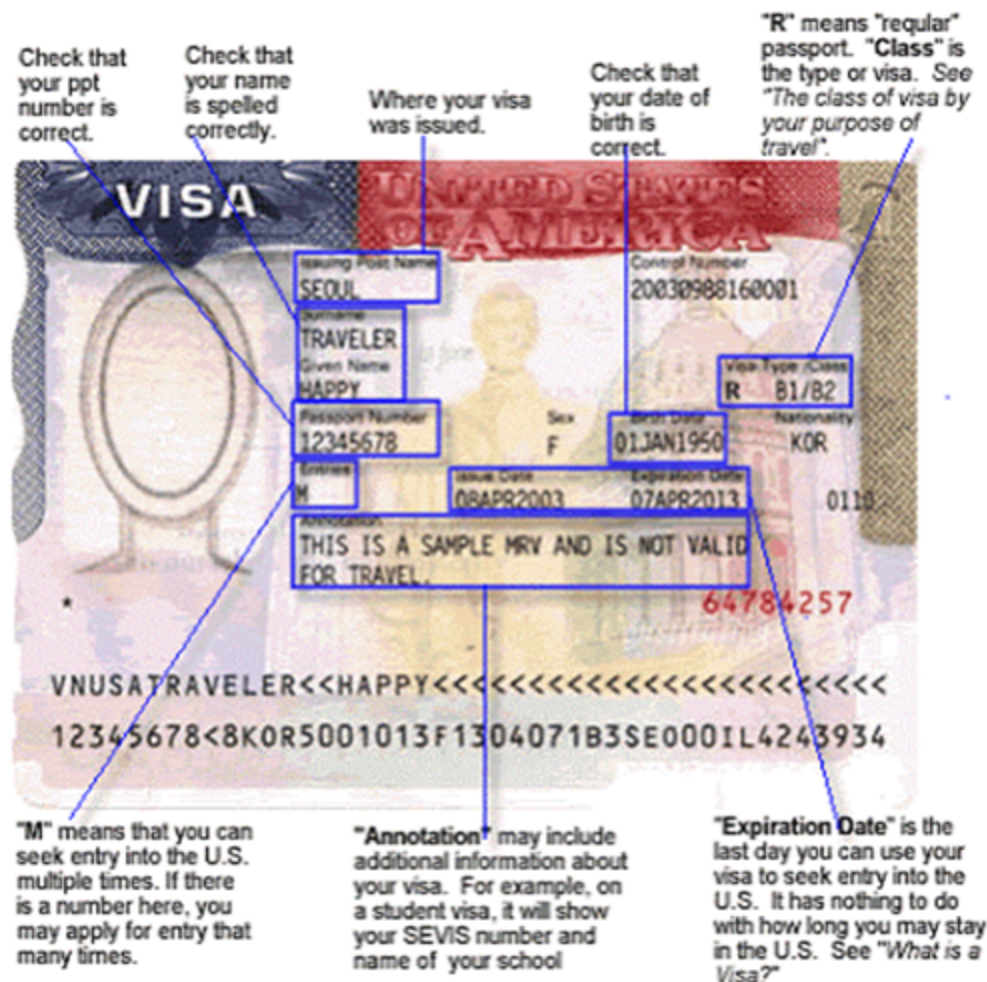
the U.S. within the validity period of the visa. However, one very important point to note is that the visa stamp does not indicate how long the traveler can remain in the U.S.

People often call our office panicked because their U.S. visa is due to expire or has expired. An expired visa does not affect a nonimmigrant's status in the U.S. It is merely a travel document. As explained below, the Form I-94 controls the nonimmigrant's stay in the U.S. after a lawful admission. The CBP will note the authorized period of stay on the Form I-94 and nonimmigrants can remain in the U.S. during their authorized period of stay, even if their visa expires during the time they are in the U.S. As a result, the expiration of the visa stamp only impacts the ability of the nonimmigrant to return to the U.S. after international travel. If a nonimmigrant's visa has expired during his or her stay in the U.S., during the individual's next international trip, the nonimmigrant must seek and obtain a new visa in order to return to the U.S.

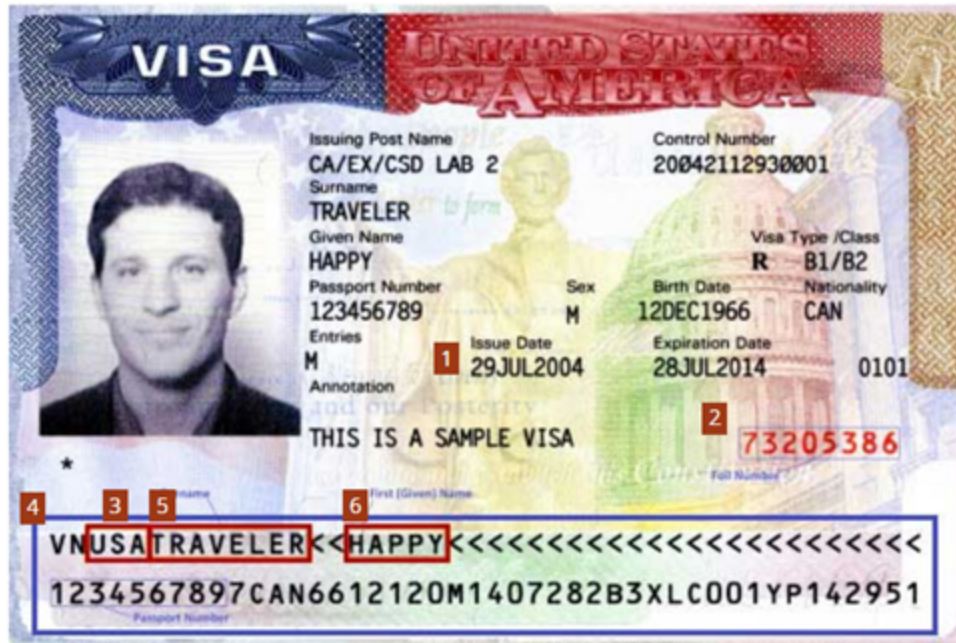
A common question that arises for those who have a valid visa in an expiring passport is whether the visa continues to remain valid once a new passport is issued. If the visa is still valid, the traveler can travel to the U.S. with two passports as long as both passports are from the same country. In this scenario, the traveler would present both passports to the CBP – the old passport containing the unexpired visa, and the new passport confirming the individual's identity.

Below are sample U.S. visas published by the U.S. Department of State (DOS) and the CBP which provide explanations regarding the various fields and annotations on the visa. After an applicant is issued a new visa, it is important to review the information printed on the visa to ensure that it is correct. If any information is incorrect, the applicant should contact the consulate immediately to seek a correction.

Reading and Understanding a Visa



Sample Visa:



FORM I-94

The Form I-94, Arrival/Departure Record, is electronically issued to nonimmigrants who are admitted to the U.S. by the CBP, regardless of whether the individual entered with a visa or without a visa under the VWP/ESTA. After each international trip, nonimmigrants should download a copy of the Form I-94 from the CBP's website ([link](#)) and confirm the accuracy of the information. If any information is incorrect, the individual should immediately seek correction of the Form I-94.

The Form I-94 controls the stay of individuals in the U.S. (not the visa) and must be unexpired in order to remain in valid status. Nonimmigrants must exit the U.S. on or before the expiration date listed on their Form I-94, or apply to extend or change status with the USCIS prior to that date in order to remain in valid status. Once the Form I-94 has expired, the individual is deemed out of status, which is a violation of immigration law and can lead to removal/deportation or denial of future admission to the U.S.


For H-1 and traditional L-1 nonimmigrants, their period of authorized stay or I-94 expiration date should be consistent with the validity of their Form I-797 regardless of the validity of their visa. An E visa holder will receive a two-year stay each time he or she enters the U.S., regardless of the validity of the visa. An L-1 Blanket visa holder will most likely be admitted until the Petition Expiration Date (PED) on his or her visa. Please note that in some cases, the authorized stay of a traveler may be shortened to the passport expiration date if it is expiring within six months of admission.

Nonimmigrants also need the I-94 to apply for government benefits that require them to demonstrate lawful immigration status in the U.S., such as a Social Security Number or a driver's license.

Below is a sample I-94 published by the CBP and a link to instructions on how to access and print an I-94 <https://i94.cbp.dhs.gov/I94/I94-EN.pdf>.

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Most Recent I-94 Results

 For: **ROGER SAMPLE**

Most Recent I-94

Admission (I-94) Record Number : 531594636A2
Most Recent Date of Entry: 2020 March 25
Class of Admission : B1
Admit Until Date : 09/24/2020
Details provided on the I-94 Information form:

Last/Surname :	SAMPLE
First (Given) Name :	ROGER
Birth Date :	1976 December 14
Document Number :	123456789
Country of Citizenship :	Canada

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FORM I-797, APPROVAL NOTICE

For those individuals who are changing or extending their status in the U.S., the Form I-94 will be issued with the Form I-797, Approval Notice, by the USCIS.[2]

The top portion of the Form I-797 contains the name of the employer and nonimmigrant, the nonimmigrant category, and the validity date of the approval notice. The bottom portion of the Form I-797 contains the I-94 which must be detached and attached to the beneficiary's passport. The original Form I-797, Approval Notice, must be maintained with the individual's passport and shown to the CBP upon reentry to the U.S.

There is a common misconception that upon issuance of the USCIS-issued I-94, the CBP's I-94 retrieval system will automatically update with the nonimmigrant's new I-94 information. Please note that the USCIS-issued I-94 will NOT update nor appear on the CBP's I-94 retrieval website as the two systems are not connected.

The USCIS-issued I-94 will become obsolete once the individual travels internationally and is issued a new electronic I-94 by the CBP. Thereafter, the individual's authorized period of stay will be governed by the CBP-issued I-94 or the Form I-797, whichever expires earlier.

In certain cases, there is a 10-day grace period allowance on the I-94 that is attached to the bottom of the Form I-797. This grace period does not allow employment. Rather, it is intended to provide a reasonable amount of time for individuals to prepare to depart the U.S. or take other action to extend, change, or otherwise maintain lawful status.

Below is a sample Form I-797 with a Form I-94 attached at the bottom.

THE UNITED STATES OF AMERICA

I-797A | NOTICE OF ACTION | DEPARTMENT OF HOMELAND SECURITY
U.S. CITIZENSHIP AND IMMIGRATION SERVICES

Receipt Number [REDACTED]		Case Type I129 - PETITION FOR A NONIMMIGRANT WORKER
Received Date 02/20/2024	Priority Date [REDACTED]	Petitioner [REDACTED]
Notice Date 02/23/2024	Page 1 of 2	Beneficiary [REDACTED]

[REDACTED]	Notice Type: Approval Notice Class: H1B Valid from 06/27/2024 to 06/26/2027
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The above petition and accompanying request for an extension of stay have been approved. The status of the named beneficiary(ies) in this classification is valid as indicated on the I-94 attached below. The beneficiary(ies) can work for the petitioner pursuant to this approval notice, but only as detailed in the petition and during the petition validity period indicated above, unless otherwise authorized by law. Changes in employment or training may require you to file a new Form I-129, Petition for a Nonimmigrant Worker.

The dates in the I-94 attached below might not be for the same dates as the petition validity dates above because the I-94 below may contain a grace period of up to 10 days before and up to 10 days after the petition validity period for the following classifications: CW-1, E-1, E-2, E-3, H-1B, H-2B, H-3, L-1A, L-1B, O-1, O-2, P-1, P-1S, P-2, P-2S, P-3, P-3S, TN-1, and TN-2. An I-94 for H-2A nonimmigrants may contain a grace period of up to one week before and 30 days after the petition validity period. However, the beneficiary(ies) may not work during such grace periods, unless otherwise authorized by law. The decision to grant a grace period and the length of the granted grace period is discretionary, final, and cannot be contested on motion or appeal. Please contact the IRS with any questions about tax withholding.

The petitioner should keep the upper portion of this notice. The lower portion should be given to the beneficiary(ies). The beneficiary(ies) should keep the right part (the I-94 portion) with his or her other Forms I-94, Arrival-Departure Record. The I-94 portion should be given to the U.S. Customs and Border Protection when he or she leaves the United States. The left part is for his or her records. A person granted an extension of stay who leaves the U.S. and is not visa-exempt must normally obtain a new visa before returning. The left part can be used when applying for the new visa. If a visa is not required, he or she should present it, along with any other required documentation, when applying for reentry based on this approval notice at a port of entry or pre-flight inspection station. The petitioner may also file Form I-324, Application for Action on an Approved Application or Petition, to request that we notify a consulate, port of entry, or pre-flight inspection office of this approval.

The approval of this petition does not guarantee that the beneficiary(ies) will be found to be eligible for a visa, for admission to the United States (if traveling abroad and seeking re-admission), or for a subsequent extension of stay, change of status, or adjustment of status.

Please see the additional information on the back. You will be notified separately about any other cases you filed.

USCIS encourages you to sign up for a USCIS online account. To learn more about creating an account and the benefits, go to <https://www.uscis.gov/file-online>.

Nebraska Service Center
U.S. CITIZENSHIP & IMMIGRATION SVC
P.O. Box 82521
Lincoln NE 68501-2521

USCIS Contact Center: www.uscis.gov/contactcenter

PLEASE TEAR OFF FORM I-94 DETACHED BELOW AND STAPLE TO ORIGINAL I-94 IF AVAILABLE

Detach This Half for Personal Records

Receipt# [REDACTED]
I-94# [REDACTED]
NAME [REDACTED]
CLASS H1B
VALID FROM 06/27/2024 UNTIL 07/06/2027
PETITIONER
[REDACTED]

Receipt Number [REDACTED]
US Citizenship and Immigration Services

I94 Departure Record

Petitioner: [REDACTED]
14. Family Name [REDACTED]
15. First (Given) Name [REDACTED] 16. Date of Birth [REDACTED]
17. Country of Citizenship [REDACTED]

In summary, a U.S. visa is a travel document, an I-94 controls the nonimmigrant's period of stay in the U.S., and the Form I-797 will contain a new I-94 if an extension or change of status is sought in the U.S. While complex, understanding the interrelationships between these documents is key for all nonimmigrants to maintain lawful stay in the U.S.

[1] Most Canadian nationals are visa exempt and certain international travelers may be eligible to travel to the U.S. without a visa if they meet the requirements for Electronic System for Travel Authorization (ESTA) travel under the Visa Waiver Program (VWP). See [link](#) for more information on the VWP.

[2] The Form I-797 is also issued in petition-based visa categories to individuals who are residing overseas. The Form I-797 issued to an individual residing overseas does not contain an I-94. The nonimmigrant would present the Form I-797 to a U.S. Embassy or Consulate to apply for a U.S. visa in the corresponding visa classification.

Masuda Funai is a full-service law firm with offices in [Chicago](#), [Detroit](#), [Los Angeles](#), and [Schaumburg](#).