I Am a Nonimmigrant...

C1 How do I...Extend My Nonimmigrant Stay in the United States?

U.S. Citizenship and Immigration Services

M-579 (12/05)

Nonimmigrant visas are issued to foreign nationals who intend to remain in the United States (U.S.) for, depending on the particular nonimmigrant classification, a **temporary or otherwise less than permanent period of time**. Prior to your admission to the U.S., a government official at a U.S. Port of Entry, examined your immigration documentation and, in most cases, issued you a **Form I-94 or I-94W**, *Arrival/Departure Record* when you were admitted. The I-94/I-94W shows your nonimmigrant status and the length of time you can legally remain in the U.S. pursuant to that admission. *Note that the I-94/I-94W shows how long you are permitted to remain in the U.S. and not your nonimmigrant visa (if a visa was required in connection with your application for admission)*. A visa only shows when and how many times you can come and seek admission to the U.S. from abroad pursuant to the particular classification listed on your visa.

We understand that you may wish to remain in the U.S. for a period longer than originally planned. This Fact Sheet contains information on how you may be able to continue doing the same types of activities for which you were initially admitted by applying for an extension of your period of nonimmigrant stay in the U.S.

How do I know if I am eligible to extend my stay in the U.S.?

You may apply for an extension of stay in the U.S. if:

- You were lawfully admitted into the U.S. as a nonimmigrant; and
- You have not committed any act that would make you ineligible to receive an immigration benefit; and
- There is no other factor that, in the sole discretion of a USCIS officer, would warrant requiring you to depart the U.S. prior to making a reentry pursuant to the same classification (for example, a USCIS officer may determine for any number of reasons that you should obtain a new visa prior to being readmitted into the U.S.); and
- You submit an application for an extension of stay **before** the expiration date on your Form I-94 (There are certain very limited circumstances under which USCIS will excuse a late filing of such an application.).

Please note: Your passport must be valid for your entire requested period of stay in the U.S.

How do I know if I am *not* eligible to extend my stay in the U.S.?

If you were admitted in any of the following nonimmigrant categories shown on your I-94, you will **not** be able to extend your stay in the U.S.:

C	(Alien in Transit)
D	(Crewman)
K-1 or K-2	(Fiancé(e) or Dependent of Fiancé(e))
S	(Witness or Informant beyond a total of three years)
Q-2	(Irish Peace Process Cultural and Training Program Visitor beyond a total of three years or beyond a total of two years if initially admitted on or after December 10, 2004)
TWOV	(Transit Without Visa)
WT or WB	(Visa Waiver Program, you would have been issued a green Form I-94W)

Please note: If you are in any of the above categories, you must depart the U.S. on or before the date your I-94 expires.

How do I apply to extend my stay in the U.S.?

How you apply for an extension of stay depends upon your nonimmigrant status:

Employment-Based Categories:

If you are in one of the following employment-related categories, your ***employer*** should file a **Form I-129**, *Petition for Nonimmigrant Worker,* **before** your Form I-94 expires:

E-1 or E-2	(Treaty Traders and Investors)
H-1B, H-2A, H-2B or H-3	(Temporary Workers)

L-1A or L-1B	(Intracompany Transferee)
O-1 or O-2	(Aliens with Extraordinary Ability)
P-1, P-2 or P-3	(Athletes and Entertainers)
Q-1	(International Cultural Exchange Visitors)
R-1	(Religious Workers)
TN-1 or TN-2	(Canadians and Mexicans under NAFTA)

Each of the above categories has specific requirements and limits, including limits on length of stay in this country. For more information, contact your employer or qualified immigration counsel.

Please note: If your employer files a Form I-129 to extend your status, and your husband/wife and/or unmarried children under age 21 also want to extend their status, they will need to file a **Form I-539**, *Application to Extend/Change Nonimmigrant Status*. They can all be included on one I-539. It is best to file the I-129 and I-539 together, so that they may be adjudicated on or about the same time. Remember, though, that they are separate applications, and therefore you and your family members (and your employer) should follow the instructions and file *all* the supporting documents with ***each*** application, even when filing the forms together.

Other Categories:

If you are in the following nonimmigrant categories, you should file a Form I-539 to extend your stay:

A-3	(Attendants, Servants, Personal Employees of Diplomatic and other Government Officials and Immediate Family)
B-1 and B-2	(Visitors for Business or Pleasure)
E	(Treaty Traders and Investors dependents)
G-5	(Attendants, Servants, Personal Employees of Foreign Government Officials and Immediate Family)
H-4	(Temporary Worker dependents)
K-3 and K-4	(Spouse of U.S. Citizen and Minor Child Accompanying/Following to Join)
L-2	(Intracompany Transferee Dependents)
M	(Vocational Students and Dependents)
N	(Parents and Children of Certain People who Have Been Granted Special Immigrant Status)
NATO-7	(Attendants, Servants, Personal Employees of NATO Representatives, Officials, Employees and Immediate Family Members)
O-3	(Aliens with Extraordinary Ability Dependents)
P-4	(Athletes and Entertainer Dependents)
R-2	(Religious Worker Dependents)
All "V" categories	(Certain Second-Preference Beneficiaries)
TD	(TN Dependents)

Please note: All family members (husband/wife and unmarried children under 21) in the same category currently can be included on one Form I-539. Remember to submit all the required supporting documents with your application.

Can I get an extension of stay if my status already expired?

If your status expired before you filed an application with USCIS to extend your stay in the U.S. or if you have otherwise violated the terms of your status, such as by working without authorization, then you are out of status. If you have fallen out of status, except in certain limited instances related to circumstances beyond your control, we cannot extend your nonimmigrant stay. Staying longer than the period of time for which you were granted admission may also have a negative effect on your ability to get other benefits or to return to the U.S. at a later time. If you fall out of status, we recommend you leave the U.S. as soon as possible to avoid, or at least minimize, the possible impact on your ability to come back to the U.S. at a later time.

When should I file and how long will it take to process my application?

Our processing times can vary. You can check our website for our current processing times. We recommend you apply no later than 60 days prior to your I-94 expiring. You may also apply up to six months before your I-94 expires to have your stay extended.

If I am eligible for an extension of stay and file on time, will my stay be extended?

An extension of stay is not automatic. We will look at your situation, your status, the reasons you want to extend your stay, and will decide whether to grant your application; if we grant it, how long we will extend your stay. We will not grant an extension where circumstances suggest an extension may be inappropriate.

What if I file on time but USCIS doesn't make a decision before my I-94 expires?

If we receive your application before your status expires, and if you have not violated the terms of your status, and you meet the basic eligibility requirements, then you may continue your previously approved activities in the U.S., including previously authorized work, for a period of up to 240 days, or until we make a decision on your application or until the reason for your requested extension has been accomplished – ***whichever comes first.*** Further, once your original nonimmigrant status expires, even though you generally will be allowed to remain in the U.S. while your extension of stay application is pending. You will not be deemed to be in any nonimmigrant status until such time as we may approve your extension of stay.

If your application for extension is denied after your previously approved stay has already expired and while you are still in the U.S., you will be considered to have been "out of status" as of the date your period of stay expired, and will be required to cease employment (if such employment was authorized) and depart from the U.S. immediately upon denial of your application. In addition, any nonimmigrant visa in your passport granted in connection with such classification becomes void at the end of the period of authorized stay. Once your visa is void, you will be required to submit any new visa application at a U.S. consulate *in your home country* (not a third country, except in rare instances as determined by the State Department).

After I file, how can I check the status of my extension application?

After you file, we will mail you a receipt. This receipt will provide a number assigned to track your application, as well as the projected processing time. Your receipt will also give instructions about how you can use this receipt number to check on the status of your case on our website. You can also use information from Fact Sheet F.

Key Information

Key forms referenced in this Fact Sheet	Form #
Arrival-Departure Record	I-94
Nonimmigrant Visa Waiver Arrival-Departure Record	I-94W
Petition for Nonimmigrant Worker	I-129
Application to Extend/Change Nonimmigrant Status	I-539

USCIS

- **On the Internet at: uscis.gov**
  For more copies of this Fact Sheet, or information about other citizenship and immigration services, visit our website. You can also download forms, e-file some applications, check the status of an application, and more. It's a great place to start! If you don't have Internet access at home or work, try your library. If you can't find what you need, call customer service.
- **Customer Service: 1-800-375-5283**
- Hearing Impaired TDD Customer Service: 1-800-767-1833

Disclaimer: This Fact Sheet is a basic guide to help you become generally familiar with our rules and procedures. For more information, or the law and regulations, see our website. Immigration law can be complex, and it is impossible to describe every aspect of every process. You may wish to be represented by a licensed attorney or by a nonprofit agency accredited by the Board of Immigration Appeals.

Other U.S. Government Services–click or call		
In general	www.firstgov.gov	1-800-333-4636
U.S. Department of State	www.state.gov	1-202-647-6575