

Form I-765 Instructions Table of Changes
01/06/2010
OMB No. 1615-0040

USCIS is submitting changes to the Form I-765 to comply with the Final Rule: E-2 Nonimmigrant Status for Aliens in the Commonwealth of the Northern Mariana Islands with Long-Term Investor Status (1615-AB75) that was published December 20, 2010 and is effective January 19, 2011.

- The requested evidence for this classification: #1, a marriage certificate, is required as the rule at 8 CFR 214.2(e)(23)(x)(B) and 8 CFR 274a.12(c)(12) limits the employment authorization of E-2C dependent to spouses.
- Requested evidence #2, evidence of residence, is based on the fact that the rule at proposed section 8 CFR 214.2(e)(23)(i)(B) specifically limits E-2 CNMI Investor status to people who reside in the Commonwealth of the Northern Mariana Islands (the CNMI) and E-2C spouse work authorization is only valid in the CNMI. Therefore, if they reside somewhere other than the CNMI, their E-2C status is invalid and they are not eligible for an EAD.
- Requested evidence #3, evidence of pending or approved E-2C status, is required as the rule at proposed section 8 CFR 214.2(e)(23)(x)(B) indicates that only spouses in E-2C status may obtain an EAD.
- Requested evidence #4, evidence that the principal has obtained status or has a petition pending, is required as the rule at proposed section 8 CFR 274a.12(c)(12) establishes that only spouses of aliens with E2C status are eligible for an EAD.
- Additionally, the VAWA, T, and U changes were made at the request of USCIS Lockbox to clarify filing procedures already established for VAWA, T, and U applicants. For example, a Form I-765 filed by a VAWA self-petitioner, T nonimmigrant, or U nonimmigrant who also has a Form I-485 pending with USCIS is eligible for work authorization pursuant to 274a.12(c)(9). The request for work authorization (Form I-765) should be filed with the Vermont Service Center and not the USCIS Lockbox. However, some applicants have inadvertently filed their Form I-765 with the Lockbox (and then the Lockbox had to forward the I-765 to the Vermont Service Center). The updated language should prevent future misfilings of I-765 by these applicants.

Location	Current Language	Proposed Language
<p>Page 4</p> <p>Insert new letter “E” in section 5 Employment-Based Nonimmigrant Categories.</p> <p>Re-letter the following letters accordingly.</p>		<p>*****</p> <p>E. Spouse of an E-2 CNMI Investor--(c)(12). File Form I-765 with evidence of your lawful status and evidence you are a spouse of a principal E-2 CNMI Investor, and a copy of the principal E-2 CNMI Investor’s long-term business certificate or Foreign Investment Certificate. (Please note that a spouse of a principal E-2 CNMI Investor who obtained status on the basis of a Foreign Retiree</p>

		<p>Investment Certification is not eligible for employment authorization and may not file under this category.)</p> <p>*****</p>
<p>Page 5 Who May File This Form I-765?</p>	<p>K. U-2, U-3, U-4, or U-5—(a)(20). If you obtained U nonimmigrant status while in the United States, you must submit a copy of the approval notice for your U nonimmigrant status. If you were admitted to the United States as a U nonimmigrant, you must submit a copy of your passport with your U nonimmigrant visa.</p>	<p>K. U-2, U-3, U-4, or U-5—(a)(20). If you obtained U nonimmigrant status while in the United States, you must submit a copy of the approval notice for your U nonimmigrant status. If you were admitted to the United States as a U nonimmigrant, you must submit a copy of your passport with your U nonimmigrant visa.</p> <p>....</p> <p>L. VAWA Self-Petitioners --(c)(31). If you are the principal beneficiary or qualified child of an approved VAWA self-petition, you are eligible for work authorization. File Form I-765 with evidence of your status, such as a copy of a Form I-360 approval notice. Additionally, you may concurrently file Form I-765 with your initial VAWA self-petition.</p>
<p>Page 7</p> <p>Insert new section under the “required Documentation” heading just prior to the section titled “Special Filing Instructions for Those With Pending Asylum.</p>		<p>*****</p> <p>Special Filing Instructions for Spouses of E-2 CNMI Investors ((c)(12)).</p> <p>Spouses of certain principal E-2 CNMI Investors (E-2C) are eligible to seek employment in the CNMI. An EAD issued under this category is only valid for employment in the Commonwealth of the Northern Mariana Islands (the CNMI).</p> <p>To determine if you are eligible for an EAD under this section, you must determine what type of investor</p>

certificate was issued by the CNMI to your spouse, the principal E-2C Investor. If your spouse was issued either a Long-Term Business Certificate or Foreign Investment Certificate, you may be eligible for an EAD under this category. If your spouse, the principal E-2C CNMI Investor, was issued a Foreign Retiree Investment Certification, you are not eligible to receive an EAD under this category.

File Form I-765 with:

1. Documentation, such as a marriage certificate establishing a legal marriage between you and the principal E-2C. Additionally, documentation such as divorce or death certificates establishing the termination of any prior marriages of you and your spouse.
2. Documentation establishing that you reside in the Commonwealth of the Northern Mariana Islands.
3. Documentation establishing that you have obtained E-2C status as a dependent or have a pending Form I-539 seeking status as an E-2C dependent.
4. Evidence that your spouse has obtained E-2C status or has an I-129 pending with USCIS that would confer E2C status upon your spouse. Please note, this evidence is not required if you are filing this application concurrently with your Form I-539 and your spouse's Form I-129 seeking E-2C status.

Page 7 What Is The Filing Fee? Add new classification.		11. (c)(31) VAWA Self-Petitioner.
Page 8 Insert new section under the “Where to file” heading, just after the section titled “Paper Filing of Form I-765:”	New Section	Replacement EAD with an error that is the fault of USCIS If you are completing a Form I-765 for replacement of an EAD that contains an error caused by USCIS, you must submit this form, accompanied by the card containing the error to the Service Center or National Benefit Center that approved your last employment authorization request. Please do not submit these applications to a Lockbox facility.
Page 9 Insert 2 new sections “(c)(9)” under the Heading “File at the USCIS Vermont Service Center if your response to Question 16 is:”	File at the USCIS Vermont Service Center if your response to Question 16 is: (a)(16), T-1 nonimmigrant victim of trafficking, or (a)(19), U-1 nonimmigrant, or (a)(20), U02, U03, U04, or U-5 nonimmigrant immediate family member of a U-1 victim of criminal activity, or (c)(14), an alien who has been granted deferred action as a...	File at the USCIS Vermont Service Center if your response to Question 16 is: (a)(16), T-1 nonimmigrant victim of trafficking, or (a)(19), U-1 nonimmigrant, or (a)(20), U02, U03, U04, or U-5 nonimmigrant immediate family member of a U-1 victim of criminal activity, or (c)(9), an alien with a pending or approved VAWA self-petition and you have a pending Form I-485 that was filed with the Vermont Service Center based on this petition. (c)(9), a T or U nonimmigrant and you have a pending Form I-485 that was filed with the Vermont Service Center based on this status. (c)(14), an alien who has been granted

		<p>deferred action as a...</p> <p>(c)(31), an alien who is the principal beneficiary of an approved VAWA self-petition.</p>
<p>Page 10</p> <p>Insert new section under the “Where to file” heading, just after the section titled “Paper Filing of Form I-765:”</p>	<p>*****</p> <p>Paper Filing of Form I-765:</p> <p>Please note that the filing locations for the paper version of this form are subject to change. Read the instructions carefully to determine where you must send your paper application.</p> <p>If your response to Question 16 is (a)(11), Deferred Enforced Departure (DED), mail your...</p> <p>*****</p>	<p>*****</p> <p>If your response to Question 16 is (a)(11), Deferred Enforced Departure (DED), mail your...</p> <p>Paper Filing of Form I-765:</p> <p>Please note that the filing locations for the paper version of this form are subject to change. Read the instructions carefully to determine where you must send your paper application.</p> <p>(Placed after “Mail to the address below:”</p> <p>“USCIS Chicago Lockbox” section)</p> <p>If your response to Question 16 is (c)(12), Spouse of an E-2 CNMI Investor,</p> <p>For U.S. Postal Service, mail your application to:</p> <p>USCIS California Service Center ATTN: E-2C I-765 P.O. Box 10698 Laguna Niguel, CA 92607-1098</p> <p>For Express mail and courier deliveries, mail your application to:</p> <p>USCIS California Service Center ATTN: E-2C I-765 24000 Avila Road</p>

		<p>2d Floor Room 2312 Laguna Niguel, CA 92677</p> <p>And before “For all other Form I-765’s, file at the USCIS Phoenix or Dallas Lockbox facilities based on where you live.” *****</p>
Page 11	<p>Interim EAD</p> <p>If you have not received a decision within 90 days of receipt by USCIS of a properly filed EAD application or within 30 days of a properly filed initial EAD application based on an asylum application filed on or after January 4, 1995, you may obtain interim work authorization by appearing in person at your local USCIS District Office. You must bring proof of identity and any notices that you have received from USCIS in connection with your application for employment authorization.</p>	<p>Interim EAD</p> <p>If you have not received a decision within 90 days of receipt by USCIS of a properly filed EAD application or within 30 days of a properly filed initial EAD application based on an asylum application filed on or after January 4, 1995, you may request interim work authorization by calling the USCIS National Customer Service Center at 1800-375-5283 or by appearing in person at your local USCIS Field Office by making an InfoPass appointment. For further processing at a USCIS Field Office, you must bring proof of identity and any notices that you have received from USCIS in connection with your application for employment authorization.</p>

The changes highlighted in yellow will not take effect until the Final Rule “E-2 Nonimmigrant Status for Aliens in the Commonwealth of the Northern Mariana Islands with Long-Term Investor Status,” RIN 1615-AB75, becomes effective (on January 19, 2011).

Lockbox revision request to guide applicants in obtaining a corrected EAD where USCIS made an error.

Office of Policy and Strategy request to guide applicants when filing under the (c)(9) classification with a VAWA self-petition.

OFO Adjustment revision request to guide applicants in obtaining an Interim EAD per 8 CFR 274a.13(d).