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# **VISITING THE USA**

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*This chapter has information about going to the USA on a holiday or visit. It is important that you read this chapter as it explains the Visa Waiver Programme and what you will need to do if you are going to the USA for less than 90 days as well as what will happen if you overstay your visa.*

**I have an Irish Passport. Do I need a visa to go to the USA on holiday or for a short stay?**

No. If you have a machine-readable Irish passport and you are planning to visit the USA for 90 days or less, you will qualify to enter the USA under the Visa Waiver Program. You will not have to apply to the US Embassy for a visitor's visa. A machine-readable passport is a passport with 2 typeface lines printed at the bottom of the biographical page (the page on your passport that shows your photograph and personal information for example your name, date of birth, address and nationality) which can be read by machine.

## What is the Visa Waiver Programme?

The Visa Waiver Program (VWP) enables citizens of participating countries to travel to the USA as a visitor for pleasure or on business for 90 days or less without obtaining a US visa. However you may still face questioning by a US Immigration Officer at the port of entry e.g. airport.

US immigration officers must be satisfied that your intention is to stay in the USA for 90 days or less before you are admitted as a visitor. If they believe that your intention is to remain in the USA longer than 90 days you will be refused entry.

### *Note*

Representatives of the press, radio, film industry or other information media cannot travel to the USA using the Visa Waiver program if they intend to work. If this is the case they will require a non-immigrant Media (I-visa).

## Who is eligible to travel 'visa free'?

The requirements for visa-free travel using the Visa Waiver Program are that you must be:

- A citizen of one of the participating countries, travelling on a valid machine-readable national or EU passport. Passports issued on or after 26<sup>th</sup> October 2006, by Visa Waiver Program countries must include a digital photo or the person travelling will have to get a visa
- Travelling for business, pleasure or transit only
- Intending to stay in the USA for 90 days or less
- In possession of a return ticket
- In possession of a completed Form I-94W which you will get at the airport before departing.

If you are entering the USA by land from Canada or Mexico you must be in possession of a completed I-94W form, which is issued by the immigration authorities at the port of entry. You will have to pay a \$7.00 fee (2007 figure) payable in US dollars only at the port of entry if you are entering by land.

## Who is not eligible to travel “visa free”?

If you are planning to go to the USA to study, work or remain more than 90 days you will not be eligible to travel “visa free”. You will have to apply for a visa. There are also a number of other reasons in which you may not be eligible to travel “visa free” for example, a person who has certain serious communicable illnesses, a criminal record, a previous exclusion or deportation order from the US and those who have previously violated their status using the Visa Waiver Program.

A person who has overstayed his/her 90 days granted under the VWP is no longer eligible to travel on the VWP and will have to apply for a visa at the American Embassy/Consulate.

If any of these conditions applies to you, or if you have previously been refused a visa, you should contact the US Embassy/Consulate to make an appointment to apply for a visa before making your travel arrangements.

## What are the conditions of using the Visa Waiver Program?

The conditions of using the VWP are:

- The 90-day period cannot be extended
- No change of status to a different non-immigrant visa type is permitted for those who entered the USA on a Visa Waiver unless you first leave the US
- The only adjustment of status to lawful permanent residence for anyone who entered on a Visa Waiver that is allowed is on the basis of an immediate relative petition, which is an immigrant visa
- A person who enters the USA on the VWP waives his/her right to a hearing before an immigration judge to contest their removal from the USA. If you enter on a USA Visa Waiver, overstay your 90 days and are caught by immigration you will be deported without a hearing.

## **Can I work in the USA if I enter on the Visa Waiver Program?**

No, you cannot work if you enter the USA on a Visa Waiver. If you are caught you could be detained and then deported. If you want to work in the USA, you must apply for a visa that specifically allows you to work.

If you work unlawfully in the USA and are caught your employer could be fined \$10,000 and barred from applying for any government contracts.

If you are caught violating the terms of the Visa Waiver Program by working, or if you overstay even by a couple of days, it is unlikely you could return on another non-immigrant visa for a long time.

If you overstay your visa by a period of 6 months or 1 year you could be refused re-entry to the USA for 3-10 years. A previous over-stay might bar you from obtaining a work visa and will show up on your immigration records.

## **What if I overstay the 90 days allowed for a visit to the USA on the VWP?**

If you overstay the permitted 90-day period you will be disqualified from entering the USA again on the Visa Waiver Program.

If you overstay even by a few days it could jeopardise the possibility of being granted another non-immigrant visa for a long time.

If you overstay by a period of more than 180 days but less than 1 year, if you leave the USA you will be barred from entering again for 3 years.

If you overstay by a period of 1 year or more, if you leave the USA you will be barred from entering again for 10 years.

If you overstay your 90 days and remain in the USA, you will be at risk of being deported without a hearing, and under current law it will be impossible to get legal status in the USA except on the basis of a petition by an immediate relative.

