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Cancer Center

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## ABOUT US

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H-1B and NIV Visas

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J-1 and F-1

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## Types of Work Visas

Please see below for details on specific types of work visas.

If you need information on citizenship or family-sponsored immigration, or you would like general information about immigration, please visit the US Citizenship and Immigration Services website at [www.uscis.gov](http://www.uscis.gov) .

## Exchange Visitors (J-1)

MSK is authorized by the U.S. government to sponsor foreign nationals to come to the United States as

Exchange Visitors in the “Research Scholar” category for temporary periods of stay (up to five years) to conduct research. The principal document indicating J-1 sponsorship is the Form DS-2019, which is issued by MSK’s Immigration Services department. Issuance of the DS-2019 is regulated by the U.S. Department of State. DS-2019 forms may only be issued when MSK’s Academic Administration Office approves academic appointments.

- Two-Year Foreign Residency Requirement (212 [e]). Some J-1 holders are subject to a two-year foreign residency requirement, called 212(e), which is a reference to the relevant statute, Immigration Act section 212(e). Unless they obtain a waiver, these individuals must return to their country of nationality or previous permanent residence for a period of two years following completion of the J-1 program before they are allowed to return to the United States. Individuals may be subject to the two-year foreign residency requirement for different reasons.
- Dependent Work Authorization (J-2). Spouses and dependent children of J-1 holders enter the United States with J-2 status. J-2 holders are entitled to apply for work permission through U.S. Citizenship and Immigration Services. They can apply for this benefit using an I-765 form available at [USCIS.gov](http://USCIS.gov) .

## **Specialty Workers (H-1B)**

This category is reserved for individuals who enter the United States to render services in specialty occupations, which are those that require at least a bachelor’s degree. U.S. Citizenship and Immigration Services administers the H-1B program. Individuals do not apply for H-1B status; H-1B is an employer-sponsored program so MSK’s Immigration Services Department will apply on your behalf as petitioner. You will become the beneficiary of the petition. H-1B status can be valid for up to six years under normal circumstances, in increments no greater than three years. H-1B extensions beyond six years are possible, under certain circumstances, if you have a permanent residence case pending.

The H-1B process can be lengthy. To apply for an H-1B, MSK must work with the U.S. Department of Labor as well as U.S. Citizenship and Immigration Services. The time required to issue H-1B status largely depends on processing times at these agencies. Typically, it takes about six to eight weeks to prepare a petition for filing following communication of the appointment by MSK’s Academic Administration to MSK’s Immigration Services department. Once filed, processing takes approximately four months before an answer is received from USCIS. In certain urgent circumstances, we can significantly decrease the processing time by using the USCIS Premium Processing Service.

## **Aliens of Extraordinary Ability (O-1)**

Prospective postdocs from other countries who possess what USCIS considers to be extraordinary ability in the sciences may be eligible to apply for O-1 status. Typically, this status is used when H-1B status is

unavailable due to J-1 home residence requirements, but only in the event that the postdoc's credentials meet the regulatory requirement for classification as extraordinary. O-1 is an employer-sponsored status, meaning that MSK must agree to act as your sponsor in order for you to receive this status. The initial grant of O-1 status may be up for three years, with renewals in yearly increments.

## **NAFTA Professionals (TN)**

This immigration category applies only to citizens of Canada or Mexico. TN status covers a wide variety of fields, including scientific research. This immigration status is renewable in up to three-year increments.

## **E-3**

The E-3 is a visa for Australian citizens to work in specialty occupations (similar to H-1B) in the United States. It has many advantages over the other types of working visas, including the ability for spouses to apply for work authorization. E-3s are usually issued for a period of two years and are renewable indefinitely in two-year increments. There is a cap of 10,500 on the number of E-3 visas that can be issued each year.

## **Taxation Assistance and Information**

Most individuals working in the United States are required to file income tax returns and pay social security, federal, state, and other applicable taxes. Employers are required to withhold certain taxes from your pay. Each tax situation is unique and you are advised to consult a tax professional or the appropriate agency for information specific to your case. The Internal Revenue Service administers and collects taxes on behalf of the United States government. Each state also has its own tax agency. Depending on your academic appointment, your visa status, and your length of stay, you may be exempt from certain taxes.

## **Tax Treaties**

The United States has treaties governing the taxation of nonresident aliens in the United States. If the United States has a treaty with your country and you meet the criteria for exemption, you can either claim exemption from withholding by filing a Form 8233 or you can claim treaty benefits when you file your income tax return. Each treaty is different, but the most common criteria for determining treaty benefits are: 1) primary purpose for your visit; 2) how long you have been in the United States regardless of prior status; and 3) how much you earn. [Form 8233](#) must be completed annually ([see instructions](#) ).

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