

Department of State

§ 42.11

(d) *Child born after issuance of visa to accompanying parent.* An alien child born after the issuance of an immigrant visa to an accompanying parent, who will arrive in the United States with the parent, and apply for admission during the period of validity of the visa issued to the parent.

(e) *Child born of a national or lawful permanent resident mother during her temporary visit abroad.* An alien child born during the temporary visit abroad of a mother who is a national or lawful permanent resident of the United States if applying for admission within 2 years of birth and accompanied by either parent applying and eligible for readmission as a permanent resident upon that parent's first return to the United States after the child's birth.

(f) *American Indians born in Canada.* An American Indian born in Canada and having at least 50 per centum of blood of the American Indian race.

§ 42.2 Aliens not required to present passports.

An immigrant within any of the following categories is not required to present a passport in applying for an immigrant visa:

(a) *Certain relatives of U.S. citizens.* An alien who is the spouse, unmarried son or daughter, or parent, of a U.S. citizen, unless the alien is applying for a visa in the country of which the applicant is a national and the possession of a passport is required for departure.

(b) *Returning aliens previously lawfully admitted for permanent residence.* An alien previously lawfully admitted for permanent residence who is returning from a temporary visit abroad, unless the alien is applying for a visa in the country of which the applicant is a national and the possession of a passport is required for departure.

(c) *Certain relatives of aliens lawfully admitted for permanent residence.* An alien who is the spouse, unmarried son or daughter, or parent of an alien lawfully admitted for permanent resi-

dence, unless the alien is applying for a visa in the country of which the applicant is a national and the possession of a passport is required for departure.

(d) *Stateless persons.* An alien who is a stateless person, and accompanying spouse and unmarried son or daughter.

(e) *Nationals of Communist-controlled countries.* An alien who is a national of a Communist-controlled country and who is unable to obtain a passport from the government of that country, and accompanying spouse and unmarried son or daughter.

(f) *Alien members of U.S. Armed Forces.* An alien who is a member of the U.S. Armed Forces.

(g) *Beneficiaries of individual waivers.*

(1) An alien who would be within one of the categories described in paragraphs (a) through (d) of this section except that the alien is applying for a visa in a country of which the applicant is a national and possession of a passport is required for departure, in whose case the passport requirement has been waived by the Secretary of State, as evidenced by a specific instruction from the Department.

(2) An alien unable to obtain a passport and not within any of the foregoing categories, in whose case the passport requirement imposed by § 42.64(b) or by INS regulations has been waived by the Attorney General and the Secretary of State as evidenced by a specific instruction from the Department.

[52 FR 42613, Nov. 5, 1987, as amended at 56 FR 49680, Oct. 1, 1991]

Subpart B—Classification and Foreign State Chargeability

§ 42.11 Classification symbols.

A visa issued to an immigrant alien within one of the classes described below shall bear an appropriate visa symbol to show the classification of the alien.

IMMIGRANTS

Symbol	Class	Section of law
Immediate Relatives		
IR1	Spouse of U.S. Citizen	201(b).
IR2	Child of U.S. Citizen	201(b).

IMMIGRANTS—Continued

Symbol	Class	Section of law
IR3	Orphan Adopted Abroad by U.S. Citizen	201(b).
IR4	Orphan to be Adopted In the United States by U.S. Citizen	201(b).
IR5	Parent of U.S. Citizen at Least 21 Years of Age	201(b).
CR1	Spouse of U.S. Citizen (Conditional Status)	201(b) & 216(a)(1).
CR2	Child of U.S. Citizen (Conditional Status)	201(b) & 216.
IW1	Certain Spouses of Deceased U.S. Citizens	201(b).
IW2	Child of IW1	201(b).
IB1	Self-petition Spouse of U.S. Citizen	204(a)(1)(A)(iii).
IB2	Self-petition child of U.S. Citizen	204(a)(1)(A)(iv).
IB3	Child of IB1	204(a)(1)(A)(iii).
VI5	Parent of U.S. Citizen Who Acquired Permanent Resident Status Under the Virgin Islands Nonimmigrant Alien Adjustment Act.	201(b) & sec. 2 of the Virgin Islands, Nonimmigrant Alien, Adjustment Act, (P.L. 97–271).

Vietnam Amerasian Immigrants

AM1	Vietnam Amerasian Principal	584(b)(1)(A).
AM2	Spouse or Child of AM1	584(b)(1)(B), and
AM3	Natural Mother of Unmarried AM1 (and Spouse or Child of Such Mother), or Person Who has Acted in Effect as the Mother, Father, or Next-of-Kin of Unmarried AM1 (and Spouse or Child of Such Person).	584(b)(1)(C) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (As Contained in sec. 101(e) of P.L. 100–202) as amended).

Special Immigrants

SB1	Returning Resident	101(a)(27)(A).
SC1	Person Who Lost U.S. Citizenship by Marriage	101(a)(27)(B) & 324(a).
SC2	Person Who Lost U.S. Citizenship by Serving in Foreign Armed Forces	101(a)(27)(B) & 327.

Family-Sponsored Preferences

Family 1st Preference

F11	Unmarried Son or Daughter of U.S. Citizen	203(a)(1).
F12	Child of F11	203(d).
B11	Self-petition Unmarried Son or Daughter of U.S. Citizen	204(a)(1)(A)(iv) & 203(a)(1).
B12	Child of B11	203(d).

Family 2nd Preference (Subject to Country Limitations)

F21	Spouse of Alien Resident	203(a)(2)(A).
F22	Child of Alien Resident	203(a)(2)(A).
F23	Child of F21 or F22	203(d).
F24	Unmarried Son or Daughter of Alien Resident	203(a)(2)(B).
F25	Child of F24	203(d).
C21	Spouse of Alien Resident (Conditional)	203(a)(2)(A) & 216.
C22	Child of Alien Resident (Conditional)	202(a)(2)(A) & 216.
C23	Child of C21 or C22 (Conditional)	203(d) & 216.
C24	Unmarried Son or Daughter of Alien Resident (Conditional)	203(a)(2)(B) & 216.
C25	Child of F24 (Conditional)	203(d) & 216.
B21	Self-petition Spouse of Lawful Permanent Resident	204(a)(1)(B)(ii).
B22	Self-petition Child of Lawful Permanent Resident	204(a)(1)(B)(iii).
B23	Child of B21 or B22	204(a)(1)(B)(ii).
B24	Self-petition Unmarried Son or Daughter of Lawful Permanent Resident	203(d).
B25	Child of B24	203(d).

Family 2nd Preference (Exempt from Country Limitations)

FX1	Spouse of Alien Resident	202(a)(4)(A) & 203(a)(2)(A).
FX2	Child of Alien Resident	202(a)(4)(A) & 203(a)(2)(A).
FX3	Child of FX1 and FX2	202(a)(4)(A) & 203(d) 203(a)(2)(A).
CX1	Spouse of Alien Resident (Conditional)	202(a)(4)(A) & 216.
CX2	Child of Alien Resident (Conditional)	202(a)(4)(A) & 216.
CX3	Child of CX1 & CX2 (Conditional)	202(a)(4)(A) & 203(d) & 216.
BX1	Self-petition Spouse of Lawful Permanent Resident	204(a)(1)(B)(ii).
BX2	Self-petition Child of Lawful Permanent Resident	204(a)(1)(B)(iii).
BX3	Child of BX1 or BX2	203(d).

Family 3rd Preference

F31	Married Son or Daughter of U.S. Citizen	203(a)(3).
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IMMIGRANTS—Continued

Symbol	Class	Section of law
F32	Spouse of F31	203(d).
F33	Child of F31	302(d).
C31	Married Son or Daughter of U.S. Citizen (Conditional)	216(a)(1).
C32	Spouse of C31 (Conditional)	203(d) & 216.
C33	Child of C31 (Conditional)	203(d) & 216.
B31	Self-petition Married Son or Daughter of U.S. Citizen	204(a)(1)(A)(iv) & 203(a)(3).
B32	Spouse of B31	203(d).
B33	Child of B31	203(d).
Family 4th Preference		
F41	Brother or Sister of U.S. Citizen	203(a)(4).
F42	Spouse of F41	203(d).
F43	Child of F41	203(d).
Employment-Based Preferences		
Employment 1st Preference (Priority Workers)		
E11	Alien with Extraordinary Ability	203(b)(1)(A).
E12	Outstanding Professor or Researcher	203(b)(1)(B).
E13	Multinational Executive or Manager	203(b)(1)(C).
E14	Spouse of E11, E12, or E13	203(d).
E15	Child of E11, E12, or E13	203(d).
Employment 2nd Preference (Professionals Holding Advanced Degrees or Persons of Exceptional Ability)		
E21	Professional Holding Advanced Degree or of Exceptional Ability	203(b)(2).
E22	Spouse of E21	203(d).
E23	Child of E21	203(d).
Employment 3rd Preference (Skilled Workers, Professionals, and Other Workers)		
E31	Skilled Worker	203(b)(3)(A)(i).
E32	Professional Holding Baccalaureate Degree	203(b)(3)(A)(ii).
E34	Spouse of E31 or E32	203(d).
E35	Child of E31 or E32	203(d).
EW3	Other Worker (Subgroup Numerical Limit)	203(b)(3)(A)(iii).
EW4	Spouse of EW3	203(d).
EW5	Child of EW3	203(d).
Employment 4th Preference (Certain Special Immigrants)		
SD1	Minister of Religion	101(a)(27)(C) & 203(b)(4).
SD2	Spouse of SD1	101(a)(27)(C) & 203(b)(4).
SD3	Child of SD1	101(a)(27)(C) & 203(b)(4).
SE1	Certain Employees or Former Employees of the U.S. Government Abroad.	101(a)(27)(D).
SE2	Spouse of SE1	101(a)(27)(D).
SE3	Child of SE1	101(a)(27)(D).
SEH	Employee of the Mission in Hong Kong or Immediate Family	101(a)(27)(D) & Section 152 of the Immigration Act of 1990.
SF1	Certain Former Employees of the Panama Canal Company or Canal Zone Government.	101(a)(27)(E).
SF2	Spouse or Child of SF1	101(a)(27)(E).
SG1	Certain Former Employees of the U.S. Government in the Panama Canal Zone.	101(a)(27)(F).
SG2	Spouse or Child of SG1	101(a)(27)(F).
SH1	Certain Former Employees of the Panama Canal Company or Canal Zone Government on April 1, 1979.	101(a)(27)(G).
SH2	Spouse or Child of SH1	101(a)(27)(G).
SJ1	Certain Foreign Medical Graduates (Adjustments Only)	101(a)(27)(H).
SJ2	Accompanying Spouse or Child of SJ1	101(a)(27)(H).
SK1	Certain Retired International Organization or NATO employees	101(a)(27)(I)(iii) & 101(a)(27)(L).
SK2	Spouse of SK1	101(a)(27)(I)(iv) & 101(a)(27)(L).
SK3	Certain Unmarried Sons or Daughters of an International Organization or NATO Employee.	101(a)(27)(I)(i) & 101(a)(27)(L).
SK4	Certain Surviving Spouses of Deceased International Organization or NATO Employee.	101(a)(27)(I)(ii) & 101(a)(27)(L).
SL1	Juvenile Court Dependent	101(a)(27)(J).
SM1	Alien Recruited Outside the United States Who Has Served or is Enlisted to Serve in the U.S. Armed Forces for 12 Years (Became Eligible After the Date of Enactment).	101(a)(27)(K).

IMMIGRANTS—Continued

Symbol	Class	Section of law
SM2	Spouse of SM1	101(a)(27)(K).
SM3	Child of SM1	101(a)(27)(K).
SM4	Alien Recruited Outside the United States Who Has Served or is Enlisted to Serve in the U.S. Armed Forces for 12 Years (Became Eligible As of the Date of Enactment).	101(a)(27)(K).
SM5	Spouse or Child of SM4	101(a)(27)(K).
SR1	Certain Religious Workers	101(a)(27)(C)(ii)(II) & (III).
SR2	Spouse of SR1	101(a)(27)(C)(ii)(II) & (III).
SR3	Child of SR1	101(a)(27)(C)(ii)(II) & (III).
Employment 5th Preference (Employment Reaction Conditional Status)		
C51	Employment Creation <i>OUTSIDE</i> Targeted Areas	203(b)(5)(A).
C52	Spouse of C51	203(d).
C53	Child of C51	203(d).
T51	Employment Creation <i>IN</i> Targeted Rural/High Unemployment Area	203(b)(5)(B).
T52	Spouse of T51	203(d).
T53	Child of T51	203(d).
R51	Investor Pilot Program, Not in Targeted Area	203(b)(5) & Sec. 610 of the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 1993 (P.L. 102–395)
Other Numerically Limited Categories		
Diversity Immigrants (Beginning in FY 1995)		
DV1	Diversity Immigrant	Section 203(c).
DV2	Spouse of DV1	Section 203(c).
DV3	Child of DV1	Section 203(c).
Transition for Employees of Certain U.S. Businesses in Hong Kong (Fiscal Years 1991–1993)*		
HK1	Employee of U.S. Business in Hong Kong	Section 124 of the Immigration Act of 1990.
HK2	Spouse of HK1	Section 124 of the Immigration Act of 1990.
HK3	Child of HK1	Section 124 of the Immigration Act of 1990.
Diversity Transition for Natives of Certain Adversely Affected Foreign States (Fiscal Years 1992–1995)		
AA1	Diversity Transition Immigration	Section 132 of the Immigration Act of 1990.
AA2	Spouse of AA1	Section 132 of the Immigration Act of 1990.
AA3	Child of AA1	Section 132 of the Immigration Act of 1990.

*Although these visas may no longer be issued, some HK visas remain valid through January 1, 2002.

[60 FR 10499, Feb. 27, 1995, as amended at 62 FR 614, Jan. 6, 1997; 65 FR 20904, Apr. 19, 2000]

§ 42.12 Rules of chargeability.

(a) *Applicability.* An immigrant shall be charged to the numerical limitation for the foreign state or dependent area of birth, unless the case falls within one of the exceptions to the general rule of chargeability provided by INA 202(b) and paragraphs (b) through (e) of this section to prevent the separation of families or the alien is classifiable under:

- (1) INA 201(b);

- (2) INA 101(a)(27) (A) or (B);
 - (3) Section 112 of Public Law 101–649;
 - (4) Section 124 of Public Law 101–649;
 - (5) Section 132 of Public Law 101–649;
 - (6) Section 134 of Public Law 101–649;
- or
- (7) Section 584(b)(1) as contained in section 101(e) of Public Law 100–202.

(b) *Exception for child.* If necessary to prevent the separation of a child from the alien parent or parents, an immigrant child, including a child born in a dependent area, may be charged to the same foreign state to which a parent is