

# Investing In A Restaurant In The U.S.

Are you a foreign national who has considered opening a restaurant in the U.S.? If so, you may qualify for E-2 treaty investor status.

E-2 status is available to a national of a country with which the U.S. maintains a treaty of commerce and navigation, who is coming to the U.S. to develop and direct the operations of an enterprise in which the national has invested, or is in the process of investing a substantial amount of capital. Let's take a closer look at these requirements:

**The investor, either an individual or a corporation, must be a national of a treaty country.** For a list of treaty countries see <http://foia.state.gov/masterdocs/09fam/0941051X1.pdf>. An individual investor qualifies if she is a national of one of these countries. In the case of a corporate investor, ownership must be traced back to the individual owners of the company. The U.S. company must be at least 50% owned by nationals of the treaty country (who may not possess U.S. legal permanent residence or citizenship). Some ex-

amples of qualifying investors would include (1) A national of Mexico who is not a U.S. citizen or legal permanent resident, who wants to open a new restaurant in the U.S., or (2) An Italian restaurant company (all of whose owners are Italian nationals) that wants to purchase 50 percent of an existing U.S. restaurant.

**The investment must be substantial.** While there is no minimum investment as a matter of law, an investment of at least \$50,000 is generally required as a rule of thumb. The lower the cost of the business, the higher the percentage of qualifying investment is required. For a business that costs \$100,000 or less, a 100% investment generally is required.

**The investment must be a real operating enterprise.** The enterprise cannot be a paper organization or an idle speculative investment. Any genuine plan to open a new restaurant or purchase an existing restaurant should meet the "real operating enterprise" test.

**The investment may not be marginal.** The restaurant must generate significantly more in-

come than that required to provide a living to the investor and family. The investor must have sufficient assets aside from those generated by the restaurant to support herself, and the restaurant should have the ability to create jobs and otherwise have an impact on the economy.

**The investor must have control of the funds, and the investment must be at risk in the commercial sense.** The investor can use funds derived from any legitimate means (i.e. savings, gift, inheritance) as long as she has control and possession of the funds. The source of the funds does not need to be outside the U.S. Loans secured with personal assets are allowed, but loans secured with the assets of the investment enterprise are prohibited.

In order for the principal investor to qualify for E-2 status, she must show that she is coming to the U.S. to develop and direct the enterprise. In addition to the principal investor, once a company has qualified as a treaty enterprise it may sponsor managers, supervi-

sors, and highly specialized workers (such as chefs) for E-2 status, as long as they are nationals of the treaty country. Note that there is no requirement that the principal investor actually comes to the U.S.; for example, a Japanese national who resides in Japan and runs a restaurant there could purchase a restaurant in the U.S., request treaty company qualification for the U.S. enterprise, and sponsor Japanese managers and specialists for E-2 status, without ever coming to the U.S. herself.

The E visa category holds several significant advantages over other types of working visas.

First and foremost, E visa applications are lodged directly at a U.S. overseas consular post, avoiding the cumbersome petitioning process at the U.S. Immigration Service required for most working visas. Although the initial application (which includes all corporate documentation) is quite voluminous, subsequent applications can be streamlined saving many months of processing time.

The second major advantage of



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E status is that it is indefinite; holders of E visas may continue to extend their E-2 status and reside in the United States as long as they continue to maintain their employment with the treaty enterprise.

For more information on E visas, see [http://www.travel.state.gov/visa/tempvisitors\\_types\\_temp\\_treatytraders.html](http://www.travel.state.gov/visa/tempvisitors_types_temp_treatytraders.html).

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## REGIONAL WINES

# Maryland; Start with Wine 101

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understands basic Old World classification systems and a bit of the languages — or at least how to properly pronounce wines, estates and regions. And promote the best local wines — they bring diversity and local pride to every wine list.

### WS201 Tasting, Tasting, Tasting

There can never be enough (supervised) tasting in the restaurant. No matter the size of your list, the selections. It also helps to have staff involved in trade tastings to ensure that their input is given credence when selecting new wines for the list. Beyond becoming familiar with the list, it's important for your staff to get comfortable with wine, its many facets, flavors and intricacies.

### WS202 Food and Wine Pairing

Better than a field trip, an afternoon of food and wine pairing can be exciting and eye-opening to staffers who are not familiar with the benefits of proper pairing techniques. Have your chef prepare your entire menu of entrees and desserts. Then open up bottles — a lot of bottles — from your wine list. Have your staff taste all wines with all entrees and let them pick what they think are the top three wines with each. Also have them rate which wines absolutely, positively

do not go well with a dish — and then explain why, so they understand that certain ingredients can clash, causing an overall unpleasant impression of both the wine and entree. Remember: no one is wrong, and remind them that even if a customer orders an off-putting pair of entrees and wines, it's best to follow the customer's lead if they assure you they know what they're doing.

### WS301 Matching Customers with Wine

This course is designed to keep your wait staff light on their feet — to be able to help a customer find the perfect wine, even when it might go against their personal recommendation. You know, the customer who wants a grassy Sauvignon Blanc with their prime rib, or a Cabernet Franc with lemon-buttered sole. Above all common sense and professional recommendation, the customer should get what she wants. This course also helps your wait staff to match wines to customer descriptions, with the inevitable contradictions. All is not lost — simply work with the customer for a minute, educate them to your extensive wine selection and help them find the perfect match for them.

### WS302 Customer Service

Above all, the customer is always right. If they ask you to evaluate a wine they think

might be corked, past its prime or just plain not what they wanted, don't scoff. Take a moment and evaluate the wine with them, then if the customer is still dissatisfied, replace the wine accordingly without a fuss. The course should also cover how to properly display, open and pour wine to guests, and how to select proper glassware for each wine. Remember, many restaurants lose valuable customers based on poor wine customer service.

All of these "courses" could be held in one afternoon, or throughout the course of the year as new staff arrive. It's important to keep your staff abreast of new wines and trends. Wine sales are a vital part of restaurant sales, and staff education will help keep sales strong.

*Dr. Kevin Atticks is the executive director of the Association of Maryland Wineries. The Association of Maryland Wineries (AMW) represents Maryland's 14 wineries, which produce over 170 distinctive wines. The wineries are open for public tours, tastings and special event throughout the year. Visit <http://www.MarylandWine.com> for more information, e-mail [info@MarylandWine.com](mailto:info@MarylandWine.com) or call 800-237-WINE.*

## Restaurant Of the Month

Each month a restaurant will be honored for its support of the Maryland wine industry. The proprietors of these establishments have made an effort to stock and promote locally-produced wines, one of the state's finest agricultural products. September's honoree is **Josef's Country Inn in Fallston, Maryland.**

## New Winery Opens in Historic Saint Mary's

Maryland's 14th winery is about to open in Historic Saint Mary's City. Chapel Cellars will be located in Farthing's Ordinary, an historic inn built in the 1600s. Proprietor Ken Korando hopes to produce 2,500 cases per year. Chapel Cellars plans to make its festival debut this Fall. Call the winery for details, 410-231-0394.

## Time for Fall Festivals

Check the events section of [www.MarylandWine.com](http://www.MarylandWine.com) for details of the upcoming Fall wine festivals.

### Maryland Wine Festival

Carroll County Farm Museum, Westminster  
Saturday, Sept. 18, 10 a.m.-6 p.m.

Sunday, Sept. 19, 12-6 p.m.

For more information, call 410-848-7775

### Riverside Wine Fest at Sotterley

Sotterley Plantation, Hollywood

Saturday, Oct. 2, 12-6 p.m.

Sunday, Oct. 3, 12-6 p.m.

For more information, call 800-681-0850

### Autumn Wine Festival

Pemberton Park, Salisbury

Saturday, Oct. 23, 11-6 p.m.

Sunday, Oct. 24, 12:30-6 p.m.

For more information, call 800-332-TOUR

[www.autumnwinefestival.org](http://www.autumnwinefestival.org)