

How to Wait Out Donald Trump's Presidential Term in Canada

Date: November 17, 2016

Original Newsletter(s) this article was published in: Blaneys on Immigration: November 2016

Back in March 2016, I discussed [whether Americans could move to Canada](#) if Donald Trump actually became President. This was several months before he actually secured the Republican nomination.

Now that Donald Trump has won the election, many Americans are once again considering the possibility of moving to Canada. In fact, it was [widely reported](#) that on Election Day, as it became increasingly likely that Donald Trump would become President, the website of Immigration, Refugees and Citizenship Canada (formerly known as Citizenship and Immigration Canada) crashed due to the increased traffic.

In March 2016, I reported that it was more difficult to permanently move to Canada than most Americans realized. However, I also suggested that something less than permanent residence might be sufficient to address the needs of Trump-dodging Americans. In light of Donald Trump's recent election victory, it is worthwhile to discuss these temporary options again.

Among disillusioned Americans, it is widely believed that Donald Trump will not win a second term as President. In fact, [some outspoken Americans have opined](#) that he will not even finish his initial four-year term. In any event, if we assume that Donald Trump would not serve a second term, permanent resident status in Canada is clearly not required.

There are several options available that would permit a U.S. citizen to temporarily reside in Canada for the next four years. A description of the most viable temporary options for U.S. citizens appears below.

Study in Canada

This option may be more relevant to younger Americans. However, it is a viable option for anyone who wishes to pursue a post-secondary education in Canada.

A foreign national who is accepted into a full-time program at a designated post-secondary institution in Canada may obtain a study permit, which will allow them to remain in Canada until the completion of their studies. For example, a bachelor degree program typically lasts four years in Canada, more than sufficient to avoid President Trump's four-year term.

During their academic studies, international students may work either on-campus or off-campus, for up to 20 hours per week during the school year and 40 hours per week during holidays. There is no need to obtain a separate work permit in order to do this.

Upon completion of their studies, an international student may also seek a post-graduation work permit, which will allow them to continue working in Canada. The duration of this post-graduation work permit will vary depending on the duration of the academic program.

Work in Canada as a NAFTA Professional

As a result of the *North American Free Trade Agreement* ("NAFTA"), U.S. citizens (and Mexican citizens also) have the ability to seek a NAFTA Professional work permit, if they fall under one of the professions listed in [Appendix 1603.D.1](#) to Annex 1603 of the NAFTA. These work permits may be issued for up to three years at a time, with no cap on the number of renewals.

The list of eligible professions is intended to be comprehensive; if an occupation does not appear in Appendix 1603.D.1, it is not eligible for a NAFTA Professional work permit. Traditional professions such as lawyer, accountant, engineer, and even computer systems analyst are listed. However, managerial positions do not appear in Appendix 1603.D.1. The only management-related profession listed is "management consultant" but it is not available to applicants who are assuming an existing or newly created permanent position with the U.S. entity.

In most, but not all of the listed professions, a baccalaureate (or higher) degree is required. Although not specifically stated in Appendix 1603.D.1, the applicant's degree must in the same field as the listed profession (or in a closely related field). That said, some professions permit alternate credentials, such as a two year post-secondary diploma plus three years of relevant work experience (i.e. computer systems analyst) or five years of relevant work experience (i.e. management consultant).

It should be mentioned that NAFTA Professional work permits are intended for applicants who are seeking entry to provide pre-arranged professional services to a Canadian employer or client. They cannot be used by applicants who will engage in self-employment, which includes the provision of professional services to a Canadian employer or entity over which they have significant ownership or control. In other words, NAFTA Professionals require an arms-length Canadian employer or client who will retain them to provide professional services.

Admittedly, Donald Trump has [threatened to renegotiate the NAFTA](#), and to withdraw from the agreement if he cannot obtain the terms that he wants. However, [according to CIBC](#), if the United States does withdraw from the NAFTA, Canada and the United States could revert back

to the *Canada-United States Free Trade Agreement* (“CUSFTA”), which was in place before the NAFTA. The CUSFTA contained immigration provisions that were similar to the NAFTA. Assuming that this occurs, the professional work permit category should continue to be available.

Work in Canada as an Intra-Company Transferee (“ICT”)

This is the most common work permit category used by employees of multinational organizations. The ICT work permit is available to executive, managerial, or specialized knowledge employees who have been employed with a foreign employer for at least one year during the preceding three years, and who are transferring to a related entity in Canada in a similar position.

Americans fortunate enough to be working for a multinational organization may be eligible for an ICT work permit, if they can convince their employer to transfer them to their Canadian office. However, given the [significant number of anti-Trump protests](#) that have occurred since the U.S. election, it is likely that other employees have already asked HR about a transfer to Canada.

Employees of small and medium sized enterprises may also qualify for ICT work permits, as long as they meet the requirements of the category. So the owner of a small or medium sized company, which has sufficient staffing to establish his or her executive/managerial position, could be transferred to the company’s related entity in Canada. It is also possible to establish a new Canadian entity in order to facilitate such a transfer but, in new office situations, the initial ICT work permit will be issued for one year instead of three years (although subsequent extensions are permitted).

Except in the case of a new office, ICT work permits are issued for up to three years initially. Extensions may also be granted up to a maximum of seven years for executives and managers, or five years for specialized knowledge workers. This would be more than sufficient to avoid Donald Trump’s entire four-year term.

Although the NAFTA ICT work permit could be eliminated if Donald Trump withdraws from the NAFTA, a similar work permit also existed under the CUSFTA. More importantly, there is a parallel ICT category available to all nationalities, which would continue to be available even if President Trump withdraws from the NAFTA.

Work as a NAFTA Treaty Investor or Treaty Trader

NAFTA Treaty Trader and Treaty Investor work permits are entrepreneurial work permits given to self-employed business owners (holding either U.S. or Mexican citizenship) who either:

- Carry on substantial trade in goods or services principally between the United States and Canada (Treaty Trader); or
- Establish or purchase a business in Canada in which they have invested a substantial amount of capital (Treaty Investor).

This work permit category also includes supervisory, executive, or essential skills employees of the Treaty Trader or Treaty Investor.

The Treaty Trader and Treaty Investor categories are based on the NAFTA. However, similar work permit categories also existed under the CUSFTA. Assuming that the United States and Canada reverted back to the CUSFTA, Treaty Trader and Treaty Investor work permits should continue to be available even if President Trump withdraws from the NAFTA.

Treaty Investor and Treaty Trader work permits are issued for only one year initially. However, they may be extended for two years at a time, with no limit on the number of extensions that may be granted. This is more than sufficient to avoid Donald Trump's entire four-year term.

Conclusion

Despite the numerous media reports, which claim (truthfully) that moving to Canada is difficult, there are still many temporary options available to Americans. Any one of these temporary options could allow a disillusioned U.S. citizen to wait out Donald Trump's presidential term from the comfort of Canada.