

[CID LAW INSTRUCTIONS NO. 27, May 25, 1988]

SPECIAL WORK PERMIT

The Immigration Act, Section 9, para . a provides that aliens may be admitted as non-immigrants, if they are temporary visitors coming for business. The business may be commercial, industrial, or professional in character, but does not include coming for employment, or for clerical or manual work.

The business of temporary visitors refers to legitimate activities of a commercial or professional character, and does not include purely local employment or labor hire. (*Karnuth v. Alboro* , 279 US 231 (1929)).

Under Republic Act No. 5455, the Board of Investment issued a circular defining acts which do not constitute "doing business in the Philippines," i.e., these acts are considered non-immigrant business: conducting business surveys or other isolated business transactions, including consultations, advice, and negotiations; providing technical consultations; or performing services auxiliary in an isolated contract of sale, such as installing machineries in the Philippines.

The suggested administrative test to determine if a non-immigrant business visit is involved, includes the following elements (Gordon and Rosenfield, 1 Immigration Law and Procedure 2-45):

1. A clear intent to retain foreign residence and domicile;
2. The principal place of business, and the place where the profit accrues, remains in the foreign country ;=
3. While the business activity need not to be temporary, and indeed may be continued, the various entries into the Philippines must individually and separately be of a plainly temporary character.

Under these principles, the temporary visitor may engage in non-immigrant business for the period of his authorized stay, provided that he secures a Special Work Permit (SWP) from the Commissioner. He shall accomplish an application form stating certain particulars, which shall bear his handwritten signature, and photograph taken no longer than 30 days from the date of the application. [sic]

Temporary visitors for business required to apply for an SWP include, but are not limited to:

- a. Professional athletes competing only for the limited period of authorized stay;
- b. Aliens of distinguished merit and ability entering to perform exceptional temporary services, but having no contract of pre-arranged employment;