



DENTONS

Navigating Residency and Citizenship by Investment Programs: A Basic Guide

Family Office and High Net Worth

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Human mobility has increased significantly in recent decades. Globalization, the relaxation of exchange controls and visa restrictions in certain regions, the pursuit of political and economic safe havens, geopolitical risk, war, social unrest, climate change, and investment diversity are key factors.

Countries compete on the global market to attract this talent and financial capital through economic residency and citizenship programs.

People with liquid funds available for investment can acquire residency and/or citizenship rights in another country in addition to their usual country of residence/citizenship. Countries with such programs gain access to talent with desired skills and a significant financial investment in their domestic economies in exchange for offering these rights. It is a simple, legitimate, and mutually beneficial exchange.

Talented, high-net-worth individuals - motivated by such factors as safety, economic opportunity, quality of life, and global mobility - are increasingly drawn to pursue alternative or secondary residency and citizenship.

This guide discusses some of the important features and considerations.

Motivation for alternative residency/citizenship

There are many reasons why people pursue alternate residency/citizenship. These include:

- **Safety and security:** People often seek alternative residency or citizenship to escape political instability, civil unrest, or threats to personal safety in their home country. This may be driven by concerns over social or political upheaval, making a secure and stable environment a primary motivation.

- **Economic Opportunity:** The pursuit of better economic prospects, business opportunities, access to capital, and proximity to innovation drive individuals to explore alternative citizenship or residency options. Economic considerations may also include tax advantages, favorable regulatory and business regimes, and opportunities for wealth accumulation.
- **Quality of Life:** Improved living standards, access to advanced healthcare systems, quality education, and an overall higher standard of living motivate people to pursue residency or citizenship in countries that offer a superior quality of life.
- **Global Mobility:** Access to visa-free travel or enhanced global mobility is a significant factor for those seeking alternative citizenship. The ability to travel freely for business, leisure, or personal reasons without the constraints of a restrictive passport is a compelling incentive.
- **Financial Freedom:** Individuals may seek financial freedom by exploring jurisdictions with favorable tax regimes, robust asset protection laws, or opportunities for wealth accumulation and management. The desire for financial autonomy and flexibility often plays a crucial role in the decision to pursue alternative residency or citizenship.

Economic citizenship programs are offered by a number of small countries in the Caribbean and Europe. These programs often don't have any residency requirements or commitment to the social fabric of the issuing country. But they are somewhat controversial because, if not properly regulated, they can provide opportunities for malevolent activity in economically vulnerable developing nations.

How to Obtain Alternative Citizenship

There are a few ways to obtain alternative citizenship:

- **By Descent:** Citizenship by descent involves acquiring citizenship through familial ties, typically from parents or grandparents who are citizens of the target country. This pathway is often influenced by familial heritage and can provide a strong connection to cultural roots.
- **By Birth:** Citizenship by birth is granted based on the individual's place of birth, determined by either *jus soli* (right of soil) or *jus sanguinis* (right of blood) principles. The rules governing birth right citizenship vary widely among countries.
- **By Marriage:** Spouses of citizens may qualify for residence or citizenship through marriage, subject to specific eligibility criteria and waiting periods. This pathway often involves demonstrating a genuine marital relationship and sometimes a commitment to integrating into the host country's society.
- **Naturalization:** This is the process of becoming a citizen through residency, language proficiency, and meeting other criteria set by the host country. This pathway typically requires a period of legal residency before an individual becomes eligible for citizenship.
- **By Investment:** Citizenship by investment involves making a substantial financial investment in the host country. This investment may take various forms, such as real estate acquisition, business development, or contributions to a sovereign wealth fund.

While citizenship by investment pathways provide a direct route to acquiring citizenship, they have faced increased scrutiny and closures due to concerns about misuse, security risks, and potential threats to national interests.

Case Study: A Back Up Plan

Heidi is a wealthy Austrian aristocrat and successful commercial property investor throughout Europe. She is married with two teenaged children.

Her family history keenly reminds her of the risks of war. She has become increasingly concerned about geo-political instability in the region since the outbreak of war in Ukraine.

Furthermore the pandemic left her with a sense of desire for wide open spaces and relative isolation.

Heidi and her husband sought advice on a few options and finally settled on New Zealand as their preferred country, having previously travelled there on their honeymoon.

Through her lawyer in New Zealand, Heidi applied for an investment class visa for herself, her husband and their teenaged children. This was granted within 3 months of applying.

Heidi invested in a portfolio of "acceptable investments" and travelled to New Zealand several times over a four year period at the end of which the family were all granted permanent resident status.

In the meantime, Heidi's lawyers in New Zealand and Austria collaborated to manage the tax implications, optimize cross-border estate planning, and provide specific advice and transactional services in relation to the acquisition of other assets in New Zealand.

They set up a satellite family office in New Zealand and have been allocating capital to real assets for investment diversification purposes. They have also set up a private foundation for social impact.

How to Obtain Alternative Residency

Economic residency programs are quite different and, generally, uncontroversial.

There are a few different ways to obtain alternative residency:

- **By Marriage:** Similar to citizenship, residency through marriage is often an option for spouses of residents or citizens. The process typically involves proving the authenticity of the marital relationship and the intention to reside in the host country.
- **By Traditional Immigration Pathways:** These include work to residence programs, skilled migration schemes, or other conventional immigration channels. These routes often require applicants to demonstrate their skills, qualifications, and contributions to the host country's economy.
- **By Investment:** Residency by investment is achieved by making a qualifying investment in the host country. This investment is designed to encourage economic contributions from foreign investors and may involve real estate purchases, job creation, or other forms of financial commitment.

Case study: A growth and impact strategy

Tom is a founder of one of the most successful technology companies in the world. He and his family are primarily resident in Palo Alto in the US where he launched his business from a garage after dropping out of Stanford University.

He has stepped down from day-to-day operations within his now publicly listed business and has set up a venture capital fund. He is keen to diversify his portfolio beyond Silicon Valley and at the same time set up a base outside the US and have an alternate residency.

Tom engaged his lawyers to provide strategic advice on residency by investment programs in the Asia-Pacific region.

They advised him that Singapore's family office sector has drawn considerable attention in the past few years. Prominent multinational family offices are increasingly exploring this island country as a gateway to access Asian investments, and it is rapidly evolving from a regional hub to a robust global destination. Today, Singapore is attracting more family office talent and leveraging public-private partnerships to make it a desirable family office locale.

The Monetary Authority of Singapore (the MAS) has a wide range of tax incentives to encourage family offices to deploy capital in Singapore towards purposeful environmental and social causes.

The Singapore government recognized the value of Tom's talent, capital, and networks to the country and granted residency to him and his family and key staff.

Tom has now set up a venture capital fund in Singapore and is allocating capital throughout the Asia-Pacific region (including Australia and New Zealand). This is made easier by Singapore's extensive networks of free trade agreements and tax treaties which provide high levels of market access to investors and enable fund passporting.

Almost half of EU member countries have an immigrant investor visa program. Canada, the United Kingdom, the United States, New Zealand, Singapore, and Australia all have currently or had previously similar visa pathways.

Whilst there are many different countries offering residency by investment on different terms, there are some common basic requirements:

- 1. Investment in prescribed assets for a prescribed period:** Each program has specific investment criteria, which may include real estate, business development, financial assets, venture capital, philanthropy, government bonds, or other approved assets. Understanding the investment requirements and ensuring compliance is crucial for success.
- 2. Good Character:** Applicants must generally demonstrate a clean criminal record and a history of good character. This involves thorough background checks to assess an individual's suitability for residency or citizenship.
- 3. Good Health:** Proof of good health through medical examinations is often a prerequisite. This requirement ensures that individuals entering the host country are not a burden on its healthcare system and can contribute positively to society.
- 4. Clean Source of Funds:** Verification of the legality and legitimacy of the source of funds used for the investment is a standard requirement. Host countries complete thorough due diligence to ensure that funds come from legal sources to prevent money laundering or illicit financial activities.
- 5. Minimum Days in Country:** Many programs require applicants to spend a minimum number of days in the host country to maintain their residency status. This requirement is in place to ensure that individuals actively contribute to the host country's economy and society.

Case study: A retirement project

Hans and his wife Gertrude are Swiss citizens and residents in their seventies. From their happy and long-lasting marriage, three children were born, who now live on their own.

Hans was a successful freelancer; thanks to his hard work he managed to accumulate a large amount of wealth, which allowed him to retire without worries. For her part, Gertrude is a lifelong beneficiary of a family foundation, which allows her to live comfortably.

Hans and Gertrude have always wanted to move to Italy, and specifically to Tuscany, where they can finally spend their old age in the countryside, enjoying a milder climate and a more peaceful lifestyle. Wanting to indulge this desire, they asked their lawyers for advice on cross-border estate and succession planning, also considering their no longer young age and the desire not to compromise the situation of their children as heirs.

Having assessed the global situation and the objectives of Hans and Gertrude, the Italian lawyers proposed that they apply for the Italian "FLAT TAX" regime, a special tax regime intended to promote investments and consumptions in Italy by attracting high net worth individuals to transfer their fiscal residency into the Italian jurisdiction.

Since Hans had been a non-tax resident in Italy for at least 9 out of the 10 years preceding the transfer of his residence to Italy (and while the Italian generated income items would undergo the ordinary domestic personal income burden), he could apply an annual flat-rate substitute tax on income and profits produced abroad, as well as be exempted from a reporting obligation related to the foreign assets held abroad and from the payment of wealth taxes on real estate properties and financial assets abroad, for a maximum period of 15 years. Hans also extended the application of the preferential regime to Gertrude - as his spouse having the same requirements applicable to the electing taxpayer - paying an even lower (and non-material) flat-rate substitute tax.

Concerns about possible inconveniences related to Hans and Gertrude's cross border succession have been also overcome, from a tax standpoint, by the fact that the election for the Italian "FLAT TAX" regime grants the exemption of rights and properties held abroad from the Italian inheritance and gift tax in the years of application of the regime; and, from a legal standpoint, by the drafting of a specific testament and a wise use of private international laws on succession.

Generally, the promotional material for countries and service providers will emphasise the ease of doing business in the home country and the benefits of the programs. However, it is important to take good advice from the outset to anticipate and potentially avoid issues, including:

- **Pathways to Citizenship:** Understanding the pathway to citizenship is crucial. Some programs offer a direct route to citizenship, while others may require additional applications and criteria. Knowing the long-term prospects and requirements for citizenship is essential for informed decision-making.
- **Differences Between the Rights of Citizens and Permanent Residents:** Understanding the distinctions in privileges, voting rights, and legal status between citizens and permanent residents is important. While permanent residents enjoy many rights, some privileges, such as voting in national elections, may be reserved for citizens.
- **Revocability of Permanent Resident Status:** Some countries reserve the right to revoke permanent residency under certain circumstances. Understanding the conditions under which permanent residency can be revoked is essential for long-term stability.
- **Tax Considerations (Incentives, Temporary Exemptions, and Pitfalls):** Being aware of tax implications is crucial for individuals participating in residency or citizenship by investment programs. Understanding tax incentives, temporary exemptions, and potential pitfalls can significantly impact an individual's financial planning. Furthermore, the cross-border ramifications and the qualification of the new fiscal status from the perspective of the exit jurisdiction of the individual must be scrutinized to ensure compliance and efficient tax planning.

- **Investment Risk:** Assessing the potential risks associated with the chosen investment is essential. Factors such as counterparty risk, prudential standards, regulatory oversight, securities laws, market fluctuations, economic stability, and the overall performance of the chosen investment should be thoroughly evaluated to mitigate risks.
- **Reputational Risk:** Participation in a particular program may impact an individual's personal or business reputation. Some programs may be subject to public scrutiny, and understanding the potential reputational risks is vital for making strategic decisions about which country to choose.

Conclusion

It is important to understand and compare the various requirements and potential issues when evaluating these different programs. Professional advice from the outset is key to minimizing the risk of loss of capital, time and reputation.

A well-informed and cautious approach is essential when evaluating alternative residency and citizenship programs. Criteria and rules constantly evolve as countries compete with each other. Moreover domestic immigration settings are inherently subject to political vagaries in issuing countries. Staying updated on law changes and seeking professional advice is paramount for a successful and secure journey.

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