

November 2014

Immigration to the UK: Tier 1 (Investor) Visa

The treatment of visa applications in the UK has been revised and the UK has now moved to a points based system under which citizens of countries outside the European Union will have to qualify if they wish to move to the UK. The system is divided into various different Tiers and this note looks at the features of the "Investor Visa Category" which is within Tier 1. Under this system you can apply for UK residency subject to making a significant financial investment in the UK.

Under the process you will first need to make an application for initial entry otherwise known as "Entry Clearance". Subject to gaining Entry Clearance, you may then look to apply for Leave to Remain, Indefinite Leave to Remain (also known as settlement) and/or possibly British Citizenship. We will highlight the features of these processes in the course of this note.

Step 1 - Entry Clearance

In order for your application to be approved you must score at least 75 points. You will achieve the required 75 points and Entry Clearance if you have personal monies, under your control, held in a regulated financial institution and disposable in the UK amounting to not less than £2m. This sum was increased from £1m with effect from 6 November 2014. Prior to the 6 November it was also possible to borrow the required funds against personal assets; this is no longer possible.

Assuming you are successful in achieving Entry Clearance you will be granted an entry visa. This will allow you to enter and to stay in the UK for three years and four months.

It is worth highlighting that although the threshold for Entry Clearance is £2,000,000 of personal assets under your control, if you wish to "fast track" and apply for Indefinite Leave to Remain within two or three years, you will need to consider making the required scale of investment as highlighted in the chart attached to this note from the outset.

If you do not wish to 'fast track' but intend to stay in the UK beyond the period of three years and four months you will then need to make what is known as an Extension Application for Leave to Remain.

This will require a further application for permission to remain in the UK and eligibility for the extension will depend on your activities since you initially arrived.

Step 2 - Leave to Remain

In order to satisfy the Border Agency's requirements for Leave to Remain you will need to ensure that, within three months of entry into the UK, and up until the expiry of your visa, you have invested at least £2,000,000 within the UK.

This investment can be made in UK Government Bonds, share capital or loan capital in permitted active and trading UK registered companies (please note that a company whose main business is property investment will not qualify for these purposes). There is no longer a requirement for applicants to 'top up' their investments if there is a fall in value, unless the fall (or part of the fall) in value has occurred as a consequence of the applicant withdrawing funds. At the time of writing this note the Government has committed to a consultation on the nature of investments made under the Tier 1 programme and it is hoped the investment class will be broadened to include charitable donations. If the extension application is granted, the visa will be extended for two years.

Step 3- Indefinite Leave to Remain or 'Settlement'

If certain conditions are met, you may be able to settle in the UK once you have lived in the UK for a minimum of two years as an investor. This is known as Indefinite Leave to Remain. Depending on the scale of investment in the UK you may become eligible to apply for this after two, three or five years of residence in the UK. The attached table outlines the scale of investment required to qualify within each period.

As well as the financial qualifications highlighted in the chart you will also need to ensure that throughout the two, three or five year period you spend less than 180 days in any calendar year outside the UK and you will also be required to pass the life in the UK test to demonstrate that you have met the knowledge of language and life in the UK requirement.

Evidence of your ability to qualify for Entry Clearance will need to be provided, therefore you will be required to provide the necessary bank account statements, and other necessary statements of funds required to properly evidence that you have met the standards outlined above. If the money intended to demonstrate the qualification for an entry visa has not been held in a portfolio or bank account for at least three months, you will also need to confirm the source of these funds when making your application to the UK border agency. Furthermore, the freely disposable money (the £2m element) will only be considered for the purposes of the application if it has not been invested in the UK for more than twelve months.

Step 4- British Citizenship

It is worth also highlighting the application for British Citizenship requirements (Naturalisation). In order to qualify for Naturalisation you will need to have been resident in the UK for five years and not spent more than 450 days outside the UK within that period and no more than 90 days outside the UK within the last twelve months.

It is hoped that the changes in the settlement requirements as reflected above will be reflected in the Naturalisation rules. If indeed the changes are implemented this will allow investors who have been living in the UK for one year after being granted Indefinite Leave to Remain to apply for British Citizenship. The formal proposals for this are still awaited.

Who can be included in your application?

When making an application for Entry Clearance you may include your partner and/or children under 18 as dependants. In this instance “partner” means a spouse, civil partner, unmarried or same sex partner.

Investment Requirements

| Application for Indefinite Leave to Remain within: | 5 Years | 3 Years | 2 Years |
|--|---|----------------|----------------|
| <u>Personal Wealth</u> Money under your personal control in UK | £2,000,000 | £5,000,000 | £10,000,000 |
| <u>Investment Requirement</u> Minimum investment in the UK via Government bonds, share capital or loan capital in active and trading UK companies: | £2,000,000 | £5,000,000 | £10,000,000 |
| Residency | No more than 180 days to be spent outside the UK in calendar year | | |
| Test | Life in the UK Test to taken | | |

If you have any questions regarding the information provided or are considering applying for a Tier 1 (Investment) Visa to enter into the UK then Rooks Rider Solicitors LLP has a team able to advise you on all aspects of a move to the UK as well as any appropriate advice required prior to arriving in the UK.

For further information or to discuss any of the issues raised in this briefing note, please contact a member of the Rooks Rider Solicitors' team:



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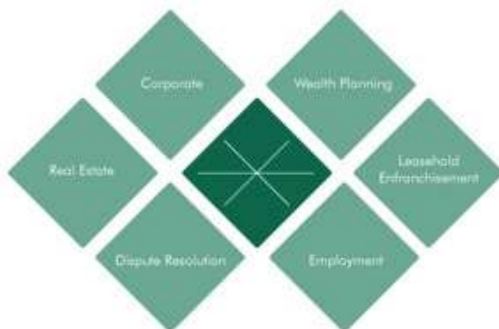
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