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# OVERVIEW OF THE INVESTOR CATEGORY

Immigration New Zealand  
TE RATONGA MANENE



Department of Labour  
TE TARI MAHI



If you are a skilled business person with capital to invest in New Zealand, you may wish to consider applying for residence under the Investor Category. The purpose of this leaflet is to describe the process for applying for residence under this category and explain the policy criteria you will need to meet at each step.

## STEPS TO RESIDENCE UNDER THE INVESTOR CATEGORY

### CRITERIA FOR APPROVAL

To be granted residence under the Investor Category you need to:

- have NZ\$2 million to advance to the New Zealand Government for five years
- have at least five years' business experience
- be aged 54 or under when you apply for residence
- meet English language, health and character requirements, and
- demonstrate you intend, and have the ability, to successfully settle in and contribute to New Zealand.

### OVERVIEW OF THE PROCESS

These are the steps you will need to follow to apply for residence under the Investor Category:

#### 1. Express interest

The first step to take if you are interested in applying for residence under the Investor Category is to submit an *Expression of Interest Form – Investor Category* (NZIS 1124). In this form you will be asked to provide information about how you meet the key criteria listed above. You do not need to provide any documentation at this stage to support the claims you make in your Expression of Interest but, if you are invited to apply for residence, you will need to provide supporting evidence with your application.

Please refer to the *Expression of Interest Guide – Investor Category* (NZIS 1125) for help with filling in your Expression of Interest form.

## 2. Apply for residence

If we assess that your Expression of Interest indicates you are likely to meet the key criteria, we will invite you to apply for residence. You can't apply for residence under this category unless you are invited.

When we invite you to apply, we will send you the form *Application for Residence – Investor Category* (NZIS 1126). This form is generated by our computer system and will have some of the questions relating to your identity and that of your family already filled in based on what you have told us in your Expression of Interest.

You will need to answer the rest of the questions and provide documentary evidence for the statements you made in your Expression of Interest within three months of being invited to apply. You will also need to declare you intend to make New Zealand your main home and demonstrate you're able to support yourself and your dependants.

Please refer to the *Application for Residence Guide – Investor Category* (NZIS 1127) for help with filling in your residence application form.

## 3. Transfer funds to your New Zealand bank account

If the evidence in your residence application supports your Expression of Interest, we will approve your application in principle. You will then have six months to liquidate (convert to cash) any assets you have nominated in your Expression of Interest and transfer the total NZ\$2 million into a bank account you have established in your own name in New Zealand. Once you have transferred these funds, you will need to provide us with evidence that the funds you have transferred to this account are from the same source as the funds and assets you nominated in your Expression of Interest.

## 4. Sign contract

If we are satisfied that the evidence you have provided clearly shows that the source of the funds in your New Zealand bank account is the same as the source you told us about in your Expression of Interest, we will send you a contract to sign. The contract lists all the terms and conditions that you will need to meet in transferring your funds to the New Zealand Government. You will have two months to sign the contract and return it to your case officer at Immigration New Zealand.

You need to make sure you understand all the conditions listed in the contract. If you are granted a residence visa or permit and you break the conditions of the contract, your residence visa or permit may be revoked. If you are unsure about any aspect of the contract, you should seek independent legal advice.

## 5. Transfer funds to the New Zealand Government

Once we have your signed contract, we will ask you to request your bank to transfer the NZ\$2 million from your New Zealand bank account to a designated bank account held by the New Zealand Government. You will need to provide us with evidence showing that the transfer was made from your New Zealand bank account.

## 6. Residence visa/permit granted with conditions

If we are satisfied with the evidence you have provided, we will grant you, and the family members included in your application, a residence visa (if you are outside New Zealand) or residence permit (if you are in New Zealand).

The residence permits held by you and your family will be subject to certain conditions:

- Your investment funds of NZ\$2 million must be retained in an acceptable investment for five years (kept with the Government or invested in a suitable business – see *Investing in an approved business*).
- You and your family must make New Zealand your main home by the end of the five-year investment period.
- You must agree to participate in evaluation and monitoring by the Department of Labour as required.

You will be asked to provide evidence of having met these conditions at the end of the five-year investment period (see *Meeting the conditions of your permit*). If you have met the conditions, they will be lifted from your residence permit, and those of your family. If you break the conditions, or cannot provide evidence of having met them, your residence permit (and those of your family) may be revoked.

## WITHDRAWING FUNDS

As noted above, a condition of your permit is that you retain the investment funds of NZ\$2 million in an acceptable investment for five years. This means you must either allow the Government to hold your funds for this period or you can withdraw a portion of your funds and invest in an approved business after two years.

**Investing in an approved business**

You may only request funds to invest in a business once your funds have been held by the Government for two years. You will need to submit a business plan to Immigration New Zealand on the approved form and pay a fee.

You can submit more than one business plan for different businesses over the balance of the five-year investment period, but each plan must meet the requirements in this section.

The proposed business must:

- be in New Zealand
- under normal circumstances be capable of providing a commercial return
- be of benefit to New Zealand (see *Benefiting New Zealand*, below), and
- be owned and controlled by you (ie you will own at least 25 percent of it).

You need to request to withdraw at least \$200,000 of your investment funds. If more than \$200,000 is required, you must round to the nearest \$50,000 (ie you can withdraw \$350,000 but not \$325,000). The maximum you may withdraw is half your investment funds, so that at the end of the investment period at least \$1 million is held by the Government.

Any return that your business makes is for your own personal use; however, funds withdrawn for investment in a business must be invested in the business and are not for personal use.

**Business plans**

To be approved, your business plan must:

- be no more than three months old
- include evidence you have enough money to finance the proposal (including the funds you are requesting to withdraw from those held by the Government and any other funds you have)
- include realistic financial forecasts
- include evidence that you have relevant business experience

- demonstrate you have knowledge of the proposed business and the New Zealand business environment
- include information about how the proposed business will benefit New Zealand, and
- include supporting documentation.

**Benefiting New Zealand**

A business is considered to benefit New Zealand if it promotes New Zealand's economic growth through, for example:

- introducing new, or enhancing existing, technology, management or technical skills, or
- introducing new, or enhancing existing, products or services, or
- creating new, or expanding existing, export markets, or
- creating employment (other than employment for you), or
- revitalising an existing business.

The business will only be considered to benefit New Zealand if we are satisfied that the business will be trading profitably, or clearly has the potential to be trading profitably, by the end of the five-year investment period.

**Changing a business proposal**

If your business proposal is approved and you later want to significantly change your business, you need to seek our consent by submitting a new proposal and paying another fee. Consent may be given if:

- there are genuine reasons for abandoning the original business proposal
- your plan for the new business proposal meets the requirements above
- you have business experience relevant to the new business, and
- you have enough money to finance the new business.

**Selling a business**

If you sell the business that you have obtained approval for, you will need to either return the funds withdrawn from the investment (less profit) to the New Zealand Government, or submit another business plan and get this approved. If you are intending to sell your business, make sure you advise your case officer at Immigration New Zealand first to make sure you don't inadvertently breach any condition of your permit.

### **Withdrawing all funds before the end of the five-year investment period**

You can request to withdraw from the scheme and take out all your money before the five-year investment period has been completed, but if you do so, you will be breaching the conditions of your residence permit (see *Residence visa/permit granted with conditions*, above). As a result, your residence permit will be revoked and you will no longer be a resident of New Zealand.

Your funds will be returned to your New Zealand bank account adjusted for inflation and tax. If you want to stay in New Zealand, you will need to apply for another type of permit. If you don't have a valid permit you will have to leave New Zealand.

## **TAX**

Income earned on investment funds is taxable income. During the term of the investment, resident withholding tax (RWT) will be deducted and paid to the Inland Revenue Department (IRD) for tax residents. Approved issuer levy (AIL) will be paid to the IRD for non-residents.

If you are a tax resident, the interest on your investment will be grossed-up by an amount equal to the RWT rate that is likely to be paid by the majority of eligible tax resident investors (currently set at 39 percent). In other words your interest will end up being close to the inflation rate. There will be no gross-up for non-resident taxpayers as the non-resident withholding tax deduction is set at zero. For more information, see *Interest on funds*, below.

## **AT THE END OF THE INVESTMENT PERIOD**

### **TRANSFER OF FUNDS**

At the end of the five-year period, your funds (adjusted for inflation and tax) will be transferred automatically back to your New Zealand bank account. It is important you tell us immediately if you change your bank account details so your money is correctly returned to you.

### **INTEREST ON FUNDS**

Interest on funds will be based on the rate of inflation (as measured by New Zealand's Consumers Price Index). This rate is determined by our national statistics office, Statistics New Zealand.

The return of your principal is guaranteed. If there is a period of sustained deflation and at the end of the five years the total payment to you (including your interest) is less than the

original investment, then we will adjust your interest so that the interest plus the principal equals the original investment (minus any previous repayments made as a result of having a business plan approved – see *Investing in an approved business*, above).

Please refer to the end of this leaflet for more information on interest, including its calculation.

At the end of the five-year investment period you will need to show us that you have met the following conditions.

### Proving you have retained \$2 million in an acceptable investment

If you have not withdrawn funds for a business during the investment period, you do not need to provide any evidence. If you have withdrawn funds, you will need to provide the following:

- evidence you have established a business in New Zealand with the funds you withdrew
- evidence that the value of the established business is equivalent to, or more than, the amount of funds withdrawn to establish the business
- evidence that the business you established is the same as the business you obtained approval for, and
- evidence that the funds stayed in New Zealand during the entire investment period.

Documentation should be provided by a New Zealand Chartered Accountant stating:

- the full name of the business owner
- the full valuation of the business
- the date the business was established, and
- documentation that demonstrates that the business is a going concern.

The accountant must be independent of you and your immigration agent, if you have used one.

### Proving New Zealand is your main home

You are considered to have made New Zealand your main home if you have spent a *significant amount of time* in New Zealand during the five-year investment period or you have *established a base* in New Zealand.

You have spent a significant amount of time in New Zealand if you have spent at least 184 days or more in New Zealand in each of the two 12-month portions of the 24 months immediately preceding the end of the five-year investment period.

You are considered to have established a base in New Zealand if:

- each and every member of your family included in your residence application has spent at least 184 days in the two years immediately preceding the end of the five-year investment period in New Zealand, **and**
- you have spent at least 41 days in the 12 months immediately preceding the end of the five-year investment period in New Zealand, **and you either**
  - own and maintain a family home in New Zealand, **or**
  - were engaged in full-time, continuous, genuine employment in New Zealand for at least nine months in the two years immediately preceding the end of the five-year investment period.

If you are claiming to have established a base in New Zealand on the basis of owning a family home, you need to have bought it within 12 months of the date you were initially granted a residence permit and still own that property. You, and/or members of your family who were included in your application, need to be living at the property when you provide evidence of meeting this requirement.

## FORMULA FOR CALCULATING INTEREST ON FUNDS

Interest will be calculated on each anniversary of the funds being accepted into the Government account and compounded until the end of the five year investment period or until the date of withdrawal if you request to withdraw all your funds before the end of the five years. If applicable, RWT will be deducted and paid to the Inland Revenue Department at the time interest is calculated.

Interest is based on the Consumers Price Index (CPI), as published by Statistics New Zealand. The CPI as at the latest quarter-end date is normally published in the month following the quarter-end date.

The following formula will be used for calculating interest:

$$P \left( \frac{\text{CPI}_{\text{end}}}{\text{CPI}_{\text{start}}} - 1 \right) \frac{a}{b}$$


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$$1 - R$$

### Where:

P = the principal amount of the funds on which interest is calculated (\$).

$\text{CPI}_{\text{start}}$  = the Consumers Price Index at  $Q_{\text{start}}$   
 $Q_{\text{start}}$ , for all interest periods that end on or before the first anniversary of the investment start date, is the latest quarter-end date which is at least one month prior to the start date. For all subsequent investment periods, it is the  $Q_{\text{end}}$  date used in the calculation of the previous annual interest.

If you withdraw all your funds prior to the end of the five year investment period ('total withdrawal'), in the event that  $Q_{\text{start}} = Q_{\text{end}}$ ,  $Q_{\text{start}}$  becomes the previous end-of-quarter date.

$\text{CPI}_{\text{end}}$  = the Consumers Price Index at  $Q_{\text{end}}$

$Q_{\text{end}}$  is, for all cases other than total withdrawal, one year after  $Q_{\text{start}}$ . For total withdrawals,  $Q_{\text{end}}$  is the latest quarter-end date which is at least one month prior to the withdrawal payment date.

a = the number of days in the annual period or, in the case of withdrawals, the number of days within the annual period for which the principal was advanced.

The annual period is the year beginning on the investment start date in the case of interest calculated for the first year or part thereof or, in all other cases, the year following the date for which interest has previously been calculated.

b = the number of days between  $Q_{\text{start}}$  and  $Q_{\text{end}}$ .

R = zero for an investor who is a non-resident for tax purposes. For an investor who is a resident for tax purposes, R will be the Resident Withholding Tax (RWT) rate, as determined by the New Zealand Debt Management Office\*, likely to be paid by the majority of eligible tax resident investors. The initial value of R is 0.39, but note R could change from time to time. R will always be zero if  $\text{CPI}_{\text{end}}$  is less than  $\text{CPI}_{\text{start}}$ .

\* The New Zealand Debt Management Office of the Treasury will act as the registrar of investors' funds

## **Maturity**

Principal, plus interest, will be repaid at the end of the five year investment period or sooner if you request to withdraw all your funds before then. If, at the end of the investment period or total withdrawal, your total payment (calculated interest plus outstanding principal) is less than the original advance minus any previous principal repayments (for business proposals), then the calculated interest will be adjusted so that the calculated interest plus outstanding principal equals the original advance minus any previous principal repayments.

## **Partial withdrawal of principal (for business plans)**

Each principal repayment during the annual period for which interest will be calculated requires a separate calculation. If you withdraw funds to invest in a business, any interim interest, less any payment to the Inland Revenue Department, will be compounded at the end of the annual period relevant to the calculated interest.

## **General**

The index to be used for the purpose of calculating the rate of interest will be the All Groups Consumers Price Index (CPI) as measured and published quarterly by Statistics New Zealand.

If the CPI is not published for any quarter or if publication is delayed until after the date when a return is determined, the CPI published for the previous quarter will apply, with a similar adjustment to  $Q_{end}$ .

If Statistics New Zealand ceases to publish the CPI, the Crown will elect an alternative measure of inflation to be used to calculate the interest.

If the reference base of the CPI is changed after the deposit date, the index used for the purposes of calculating interest will be the CPI numbers expressed on the new base as published by Statistics New Zealand.

