



EB-5 Immigrant Investor Visa Program: Invest in Economic Development

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The past few years have seen a rise in the popularity of the EB-5 Immigrant Investor Visa Program (“EB-5 Program” or “Program”).

The Program has come more into focus as developers have begun exploring and using EB-5 funding for new projects.

It was created by the Immigration Act of 1990, giving foreign investors the opportunity to qualify for a Green Card with a \$1 million investment in U.S. business, lowered to \$500,000 in a high unemployment or rural area. Immigrant investors who acquire a Green Card would then be granted U.S. residency.

The projects are typically administered through a Regional Center. A Regional Center is a legal entity, organization, or municipal or state agency that has been designated by the U.S. Citizenship and Immigration Services (USCIS) as a regional center and has a focus on promoting economic growth and job creation. The investment is required to create or preserve 10 or more jobs full-time jobs for qualifying U.S. workers in the local economy within a specific time period, so the investor

may be granted a visa. There is currently a limit of 10,000 visas to be granted each year through the Program.

History & Overview

Projects that make use of EB-5 funding have the potential to benefit communities by providing both short- and long-term job opportunities. Although the numbers are up for debate, estimates show that the EB-5 Program has brought in more than \$7 billion in investments and supported the creation of more than 77,000 jobs.

So far, EB-5 financing has been used for projects that include large commercial property developments, assisted-living facilities, and manufacturing plants. New York City’s Hudson Yards project was able to raise \$600 million using a “cash-for-visa” deal business structure. In Philadelphia, EB-5 money helped transform a closed Navy yard into an active multi-use development housing 130 companies and 10,000 employees. And Washington DC’s Uline Arena, which is being converted into an office and retail center, has been funded

by EB-5 money—helping to revive the entire area.

But development and construction is not the only way EB-5 investments can be used, although it accounts for a large portion of the types of projects. Entrepreneurs may also apply them toward commercial enterprise, meaning any for-profit activity formed for the ongoing conduct of lawful business including, but not limited to:

- A sole proprietorship;
- Partnership (whether limited or general);
- Holding company;
- Joint venture;
- Corporation; or
- Business trust or other entity, which may be publicly or privately owned.

This definition includes a commercial enterprise consisting of a holding company and its wholly owned subsidiaries, provided that each such subsidiary is engaged in a for-profit activity formed for the ongoing conduct of a lawful business (including timeshare development).

Caveats & Status

There are some concerns with the program, per the following:

- EB-5 money is being spent on projects in wealthy areas and not enough in low economic areas. Without much reliable data to assess program performance, it is not clear whether the Program is meeting its goals.
- There is not enough regulation, which creates a greater risk for fraud. Some high-profile fraud cases related to regional centers damaged the program's reputation and highlighted vulnerabilities both for the overall success of the program and the immigrant investors.
- Unless regional centers or economic development entities attempt to measure the short- and long-term impacts and direct and indirect effects of EB-5 financing, it will continue to be difficult to assess the effects on communities that are supposed to benefit.

The scale of the EB-5 Program is small in comparison to the entire permanent-resident admissions policy,

ARDA's Position

ARDA supports legislative efforts to extend EB-5 regional centers and is a strong Coalition partner of a broad-based EB-5 Coalition that seeks to reform and reauthorize the program. EB-5 financing has helped to fund infrastructure, charter schools, real estate development, energy production, ski resorts, hotels, and more.

accounting for less than 1% of green cards issued each year. The program is, however, gaining popularity and use. As recently as 2007, only 800 visas were issued under the program. That number increased to almost 7,000 by 2013.

The program reached capacity for the first time in 2014 and it is reported that as of December 2015, there are an estimated 57,000 people currently in line for an EB-5 visa. With a cap of 10,000 visas issued each year, that makes it a long waiting list. The program is extremely popular among Chinese investors who account for over 90% of all EB-5 visas granted and helps fuel big U.S. developers.

Is EB-5 right for you?

The future of the program was up for review by Congress and was set to expire on December 11, 2015. After discussions, the program got a five-day extension until December 16, 2015. Proposed changes to the program included increasing the price for U.S. residency to anywhere between \$800k and \$1.2M and preserving 2,000 of the visas for rural investors.

After much debate, Congress has resolved to continue the program unchanged for another year and the same provisions were extended through September 2016. As 2016 is a presidential election year, there is unlikely to be any sweeping change or reform to the program. However, immigration is a current "hot button" with presidential candidates and as such, the provisions of the program are likely to be subject to change in the not-to-distant future.

In summary, despite the long waiting list, concern and potential for changes, EB-5

is a solid consideration. It has had many successes and has helped fuel U.S. growth post-recession and its popularity continues to increase. ■



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