

New Developments in Residence and Citizenship Planning



*By Christian H. Kälin
Partner, Henley & Partners, Zurich*

Residence and citizenship planning are terms which were coined by Henley & Partners some 20 years ago. They can be defined as the process of finding solutions to the complex range of considerations involved in moving your residence to another country or obtaining residence rights or citizenship in more than one country. This aspect of private wealth planning is now growing in importance, and it has become a global trend, particularly among very wealthy, internationally mobile “global citizens”, to have multiple residence and citizenship.

Frequent travellers, especially those who often require visas or who travel very often at short notice, find a second citizenship invaluable in ensuring flexibility and the ability to travel immediately when required. Those who need to live in a safer country than their own, either now or in the future, or who wish to secure their retirement in a pleasant country of their choice, can obtain that security through citizenship. Improving your international tax situation can be another benefit of an alternative residence, alongside protecting your financial pri-

vacy and structuring matrimonial and inheritance interests in an advantageous manner.

For virtually all countries, attracting inward investment is a key priority in these times. Here, we will look at some of the newest and most attractive options for individuals in the market today.

The new Malta citizenship-by-investment option

Malta has recently launched the Individual Investor Program (IIP), allowing for the grant of citizenship to duly qualified, reputable foreign individuals and families who make a significant contribution to the economic development of Malta. The IIP has been designed and is operated by Henley & Partners for the Government of Malta under a public services concession. As concessionaire Henley & Partners is responsible for part processing all applications on behalf of the government and in this regard works together with the government agency responsible for citizenship, Identity Malta. Subject to the world’s most thorough application procedure including detailed due diligence and background verification checks, the applicants and their families are granted full citizenship from a well-respected and stable EU country. To qualify for citizenship, the main applicant must be over 18 years of age, meet all of the application requirements and make a non-refundable contribution to the National Development and Social Fund.

The contribution required for a main applicant is reasonable at €650,000 and there is an additional contribution of €25,000 for a spouse and each child under 18. The application can also include children between 18 and 25, if they are financially dependent on the main applicant and not married, as well as parents over the age of 55, if they are living with and are fully supported by the main applicant, for an additional contribution of €50,000 per person. Additionally, applicants are required to either rent or buy an apartment or house in Malta, which they

need to maintain as a residence in Malta for at least 3 years.

Due diligence fees are also payable for all applicants. Malta has developed a 4-tier due diligence system which is considered the most thorough in the world for these kinds of programs, but even given this, the application process will usually take less than 4 months.

The Maltese passport gives visa-free travel to more than 160 countries in the world, including the U.S., and gives right of establishment in all 28 EU countries as well as Switzerland. Malta itself is also an attractive place to live or to own a second home and is strategically located with excellent air links.

The Portugal residence-by-investment program

Further west, in Portugal, legislation has recently been streamlined to improve a process by which non-EU residents may obtain a residence permit based on investment and by which both EU and non-EU nationals can benefit from special tax exemptions. This residence permit allows access to the Schengen area. The legislation offers three qualifying investment routes to obtain resident status under the program, which must be maintained for a minimum period of 5 years. After 6 years as a resident, the applicant is eligible to apply for citizenship.

The residence permit only requires an average of 7 days per year stay in Portugal over this period, which can also count towards citizenship eligibility after 6 years. A citizenship application requires some knowledge of the Portuguese language and a clean criminal record. The qualifying investments for residence in Portugal are:

- The transfer of capital with a minimum value of €1 million; this can include investments in stocks and shares.
- The acquisition of real estate with a minimum value of €500,000.
- The creation of at least 10 new jobs registered with the social security department.

The application process is fast and efficient, and a single process-motivated visit to Portugal is feasible. Portugal is easily the most attractive residence program in Europe now.

The United Kingdom investor immigration program

In 2008, the United Kingdom (UK) immigration authorities implemented a new application system for non-EU nationals who wish to gain entry and residence in the UK. The new system is points-based and divided into 5 tiers. The tier 1 investor category is aimed at attracting high net worth individuals to make a substantial investment of a minimum of £1 million in the UK and gives permanent residence status after 5 years.

In March 2011, the government announced new rules which provide the ability to achieve permanent residence in the UK through an accelerated route. If a tier 1 investor invests £10 million or more, he or she can gain permanent residence after 2 years, while an investment of £5 million will lead to permanent residence after 3 years.

There are no additional qualifying requirements for the initial application, and the applicant is not required to show business experience or the ability to speak English. The initial visa is valid for 3 years. The investor and his or her family are permitted to work and/or study in the UK.

At the expiry of the initial 3-year visa, the applicant and his or her dependants must apply for an extension of stay. The UK government will grant a 2-year extension if all relevant criteria have been met. On completion of 5 years of continuous lawful residence, the main applicant may apply for himself or herself and the respective family to be granted settlement, i.e. Indefinite Leave to Remain in the UK (ILR).

The UK expects the investor to make the UK their main home by spending more time in the UK than elsewhere. This is a significant downside of this program, as it is therefore only suitable for persons who actually are able and willing to spend the necessary minimum time in the country. Up to a maximum of 180 days in any of the 12-calendar-month periods preceding the date of application for settlement may be spent outside the UK.

To qualify for settlement, the applicant must meet certain criteria relevant to each category. All applicants must prove that they have sufficient knowledge of the language and life in the UK and must pass the "Life in the UK" test and an English language exam. The physical residence requirement stipulates that the applicant must stay in the UK for more than 6 months per year. Partners and dependent children under 18 can apply to come to the UK with the investor.

Upon being granted settlement and spending a minimum of 5 years in UK (in the last 12 months of that period the applicant must have held ILR), it is possible to apply for British citizenship. To qualify for citizenship, each applicant must meet additional strict residency requirements.

The new Antigua citizenship-by-investment program

Antigua and Barbuda is an independent Commonwealth state in the Eastern Caribbean and launched a new citizenship-by-investment program in November 2013. This program was designed and implemented by Henley & Partners under a mandate from the Government of Antigua and Barbuda. Holders of an Antiguan passport enjoy visa-free travel to approximately 130 countries, including the UK, Canada and the countries of the Schengen area, but do require a visa to enter the U.S. as they are not a member of the visa-waiver program. The program is very similar to the well-established program in St. Kitts and Nevis, which was restructured by Henley & Partners in 2006/2007 and has since become the most reputable and most successful of its kind.

Like in St. Kitts and Nevis, the citizenship-by-investment program of Antigua requires a person to make a significant economic contribution to the country. In exchange, and subject to a stringent vetting and diligence process, the applicants and their families are granted full citizenship. To qualify for citizenship, the primary applicant must be over 18 years of age, meet the application requirements and select one of the following 3 options:

- An investment of at least US\$400,000 into one of the approved real estate projects.

- An investment of a minimum of US\$1,500,000 directly into an eligible business, either as a sole investor or via a joint investment.
- A contribution to the National Development Fund of a minimum non-refundable amount of US\$200,000 (for a single application); this is likely to increase to US\$250,000 during 2014.

For all these options, there are government processing fees, currently capped at US\$50,000 for a family of up to 4 persons, although again this may increase in 2014, and due-diligence fees for each individual included in the application.

The main applicant and his or her dependants must have a clean personal background. The application process will usually take between 3 and 4 months, and an interview may be necessary in some cases. Under the real estate option, the time frame may vary depending upon the project. Therefore, it is important to select a real-estate project that is able to provide the necessary paperwork required from the developer for the citizenship application.

Many more options

In each of these examples, and in many other countries in the world, it is also possible to start a new business, establish a branch or subsidiary of a foreign company or substantially invest in a business and thereby obtain a residence permit. Equally, it is often possible to obtain residence, or in some countries even citizenship, if you meet the relevant requirements for persons of independent means.

However, the immigration, citizenship and tax laws of most countries are becoming increasingly complex and are subject to continuous change. The choice of options as well as the procedures involved can be daunting for prospective applicants who are not fully conversant with all the relevant possibilities and legal aspects of their cases. Residence and citizenship planning is a field where paying a specialist to give advice and guidance pays off quickly, and as is generally the case, it usually pays to work with the best.

christian.kalin@henleyglobal.com
www.henleyglobal.com