



# EB-5 retiree visa

H Ronald Klasko on what trusts and estates attorneys need to know about the EB-5 'retiree' visa



#### ABOUT THE AUTHOR

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**D**o you represent clients wishing to retire to the United States? The United States has long been a haven for retirees. For some, six months in the US and six months outside of the US is a perfect mix. For others, the goal is to move permanently to the US for the retirement years.

Unfortunately, US immigration laws often do not accommodate these desires. For the 'snowbird' and others who only want to be in the US part of the year, a visitor's visa may be sufficient. Generally, a foreign national who can prove continuing ties to their home country is able to visit the US for up to six months as long as they do not work in the US. For foreign nationals who are accustomed to travelling without a visa (from so-called 'visa waiver countries'), their stay in the US is limited to three months. Therefore, if they want to stay six months, they need to obtain a visa.

Retirees, who want to live in the US year round, and retire in the US, have traditionally found no good solution. Assuming they do not want to work in the US, working visas and green cards based on employment are not an option. If they have a US-citizen spouse or a US-citizen child over age 21, they may be able to get a green card relatively quickly. If they have other family members (such as permanent resident spouse, US citizen parent, US citizen sibling), they may be able to get a green card, but the quota wait may be a completely unacceptable period of time (five to 25 years).

## The solution

Happily, there is a solution that fits perfectly with the needs and desires of the retiree with some significant assets. The solution is called the 'Regional Center EB-5 Program'. Because the regional center EB-5 program meets the needs of so many retirees who want to retire in the US, it has appropriately been dubbed the 'retiree visa'.

This program allows the retiree:

- To work or not work as they please
- To live anywhere they want to live
- To travel in and out of the US as frequently as they wish
- To get green cards for their spouse and unmarried, under-21 children.

The retiree must invest a specified amount of money in a US government-approved 'regional centre'. Generally, the investment must be for a period of at least five years. The retiree gets a 'conditional green card' for two years. Upon showing that the investment has not been withdrawn and the investment proceeds have been used as specified by the regional centre, the retiree gets a permanent green card.

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## The details

1. Amount of investment: in almost all of the regional centres, the amount of investment is USD500,000. In a few, it is USD1 million. Generally, the regional centre has various administrative and other fees, usually ranging between USD25,000 and USD50,000.

2. Where is the investment made? The investment is made in any of the government-approved regional centres. Presently, there are approximately 30 approved regional centres.
3. What use is made of the investment proceeds? Each regional centre is approved for different types of projects. For example, the Philadelphia Regional Centre invests in building and construction projects throughout the City of Philadelphia. The regional centre in Seattle generally invests in hotel projects. Regional centres in Vermont invest in ski condominiums. The Los Angeles Film Regional Centre invests in movie studios.
4. Does the investor have to work in the regional centre project? No. In most cases, the investor becomes a limited partner with the active management being done by the general partner.
5. How secure is the investment, and what is the rate of return? The answer varies for each regional centre. The investor should certainly have an accountant, lawyer and/or financial advisor review the details of the regional centre investment to provide these answers to the investor for the regional centre chosen.
6. How successful have other retirees been in getting green cards through these regional centres? Some of the regional centres have no or very little track record, having only recently been approved by the government. Others have filed many hundreds of applications for investors with reported 100 per cent approval rates.
7. Does the retiree have to live near the investment project? No. The retiree can live anywhere she wishes.
8. How long does this take? The two-step process to obtain the conditional green card generally ranges between nine and 26 months.



9. Is anything required of the retiree other than the money? There are rather stringent requirements for documenting the lawful source of the investment funds. The retiree must provide the last five years of tax returns filed in any jurisdiction, as well as other documentation necessary to show that the money comes from lawful sources (if the tax returns are not sufficient). If the money comes from a gift, the person giving the gift has to prove the lawful source of the gifted funds.

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Another option exists for getting wealthy retirees permanent residency status – although it might not be as attractive as the regional centre investment program. Foreign nationals could get a green card by investing either USD500,000 or USD1 million in a US

business depending upon the geographical area of the investment. However, the investment must be in an active business that will directly employ ten full-time US citizen or permanent resident workers. Starting a new business or acquiring an existing business and employing significant numbers of people may be exactly the opposite of what the retiree wants to do in the United States.

Retirees who are interested in pursuing the retiree visa may refer to [www.web5immigration.com](http://www.web5immigration.com). ■