

Retiree Visas

By H. Ronald Klasko*

The United States has long been a haven for retirees. For some, 6 months in the US and 6 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 visitors visa may be sufficient. Generally, a foreign national who can prove continuing ties to her home country is able to visit the US for up to 6 months as long as she does not work in the US. For foreign nationals who are accustomed to traveling without a visa (from so-called “visa waiver countries”), their stay in the US is limited to 3 months. Therefore, if they want to stay 6 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 (5 to 25 years).

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Green cards through investing in a business might be possible. The amount of investment is either \$500,000 or \$1 million 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 US.

Happily, a solution does exist 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.” This program allows the retiree:

- To work or not work as he pleases;
- To live anywhere he wants to live;
- To travel in and out of the US as frequently as he wishes;
- To get green cards for his spouse and unmarried, under 21 children.

In summary, the retiree must invest a specified amount of money in a US government-approved “regional center.” Generally, the investment must be for a period of at least 5 years. The retiree gets a “conditional green card” for 2 years. Upon showing that the investment has not been withdrawn and the investment proceeds have been used as specified by the regional center, the retiree gets a permanent green card.

Here are the details:

1. Amount of Investment – in almost all of the regional centers, the amount of investment is \$500,000. In a few, it is \$1 million. Generally, the regional center has various administrative and other fees, usually ranging between \$25,000 and \$50,000.
2. Where is the investment made? – The investment is made in any of the government-approved regional centers. Presently, there are approximately 30 approved regional centers. The author can provide a list upon request.

3. What use is made of the investment proceeds? – Each regional center is approved for different types of projects. For example, the Philadelphia Regional Center invests in building and construction projects throughout the City of Philadelphia. The regional center in Seattle generally invests in hotel projects. Regional centers in Vermont invest in ski condominiums. The Los Angeles Film Regional Center invests in movie studios.
4. Does the investor have to work in the regional center 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 center. The investor should certainly have an accountant, lawyer and/or financial advisor review the details of the regional center investment to provide these answers to the investor for the regional center chosen.
6. How successful have other retirees been in getting green cards through these regional centers? – Some of the regional centers 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% 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 12 and 24 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 5 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.

Because the regional center EB-5 program meets the needs and desires of so many retirees who want to retire in the US, it has appropriately been dubbed the “retiree visa”. Retirees who are interested in pursuing the retiree visa may refer to www.eb5immigration.com or contact the author of this article at rkasko@klaskolaw.com.