

Business Migration Policy and Practice Update

Presented by

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This session examines:

- Immigration policy behind the Long Term Business Visa (“LTBV”) and Entrepreneur Visa (“EV”) avenues
- “Do’s” and “Don’ts” when lodging applications
 - What makes a successful application stand out and what makes one fail?
- Essential ingredients required to effectively reflect your client’s strong feasible business plan



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Policy behind LTBV and EV

- How they differ?
 - LTBV is only a “TEMPORARY” visa
 - EV is a “PERMANENT” visa
 - LTBV grants a “WORK” visa
 - EV grants a “RESIDENCE” visa



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Long Term Business Visa is...

- Essentially a “look-and-see” visa;
- It is ideal if you are interested in establishing a business in New Zealand, but do not yet know whether you wish to live in New Zealand permanently.
- Successful LTBV applicant is granted a work visa for up to three years and can then apply for residence under the Entrepreneur Category after 24 months of running the business.



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Long Term Business Visa's Objectives are

- to facilitate the entry of genuine visitors, students and temporary workers, while managing the associated risks;
- to contribute to building strong international links, attracting foreign earnings and addressing skill shortages; and
- more specifically, to contribute to the economic growth of New Zealand through increasing level of human capital, encouraging enterprise and innovation and fostering external links



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Entrepreneur Visa's Objective is

- to attract migrants who can demonstrate they have been actively participating in business and contributing to New Zealand's economic development



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Entrepreneur Visa grants...

- residence to those who have successfully established a business in New Zealand.
- an applicant will need to demonstrate that s/he
 - has established or purchased or made a substantial investment in a business operating in New Zealand;
 - has been self-employed in that business in New Zealand for at least 2 years; and that
 - the business has benefited New Zealand in some way.



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EV – “benefiting in some way?”

- A business is considered to be benefiting New Zealand if it promotes New Zealand’s economic growth. For example:
 - the introduction of new or enhancement of existing technology, management or technical skills; or
 - the introduction of new or enhancement of products or services or export markets; or
 - the creation of new or expansion of existing export markets; or
 - the creation of new job opportunities; or
 - the revitalising of an existing business; and
 - the business must be trading profitably on the date the application is lodged or must clearly have the potential to become profitable within the following 12 months.



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Do's and Don'ts...

What makes one stand out and what makes one fail?

- An outstanding business application should:
 - Incorporate several of the potential benefits to New Zealand we have just looked at;
 - Exceed the quantum “pledged”;
 - Commit to a worthwhile level of investment;
 - Emphasise hiring local kiwis high on its priority list;
 - Identify the applicants level of genuineness and commitment to the business plan;



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- An outstanding business application should:
 - Ensure that supporting documentation can be utilised by NZIS for verification purposes, anticipate verification requirements and make sure that all contact details are readily available;
 - Illustrate through documents and other evidence how the funds were acquired or accumulated;
 - Ensure all relevant documents are translated into English;
 - Discuss and reinforce the need that the proposed business will provide a comprehensive training program for employees;
 - Ensure all regulatory and compliance requirements (eg: IRD, ACC, OSH, DOL, etc) are adequately addressed and recognised;



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- An outstanding business application should:
 - Regulatory policy and documents such as Health and Safety Policy and Employment contracts should be well documented and used daily;
 - Acknowledge any weakness or threat under the SWOT analysis and suggest a positive solutions;
 - Compare notes with colleagues. Ask the NZIS staff in advance about how they are processing and considering applications;
 - Have TRADENZ / local authority support.



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Some do's...

- Advise and encourage your client to establish or invest in a business which will benefit the New Zealand economy.
- Reinforce the fact that LTBV is only a temporary visa and ensure that the client knows their obligations and requirements under EV
- Ensure that submissions and replies to potentially prejudicial information letters (“PPI letters”) are logical and credible.
- Replies and submissions should be concise, avoiding the temptation to waffle



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Some do's...

- Comply with requested time frames and where necessary expressly negotiate and agree upon extended time frames
- Ensure the applicant's qualifications (if any) and business background are relevant to the proposed business
- Consider settling and basing the business in a regional centre away from the established hubs of Christchurch, Wellington, and Auckland



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Some do's...

- Ensure that the business plan is feasible and practical
- Maintain communication with the business immigration specialist (“BIS”) and notify BIS of any change in the applicant’s circumstances which affect the application or visa/permit
- Ensure that the applicant is aware of the need to maintain accurate and chronological documentation
- Ensure that the applicant maintains records and evidence of recruitment processes



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Some do's...

- Maintain photographic records and complimentary letters from suppliers and clients of the business
- Ensure that all business contracts, invoices, bank and taxation records are maintained in order during the 3 year LTBV period
- Encourage the applicant to employ only New Zealanders or those with permanent residence status to show the benefit to New Zealand



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Some do's...

- Upon approval of an LTBV take time to explain and reinforce the obligations listed in the approval letter to help avoid problems later
- Desirable that client is assisted by Chartered Accountant with the preparation of the three year financial forecasts
- Do submit that BIS should apply their delegated powers and discretion in your client's favour in appropriate cases



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Some do's...

- Do obtain email updates and newsletters from BMB as well as copies of their guides to keep up to date
- Do complain if you genuinely believe your client is getting a raw deal – trigger review process, etc
- Do take your client through the provisions of evidential requirements for EV so they are familiar with what is expected of them
- Do ensure that the Business plan is not older than 3 months old at the time of submission



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Some don'ts...

- Encourage your client unnecessarily to make any unconditional agreements for business acquisitions or to establish business prior to the approval
- Be tempted to downsize the business or deviate from the approved business plan
- Accept everything the applicant (client) tells you
- Leave the extension of visa/permit to the last minute



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Some don'ts...

- Submit untranslated documents as they may be ignored or rendered inadmissible by the NZIS
- Breach regulatory or compliance laws especially employment law
- Use the same Business Plan over and over again
- Employ solely foreign workers
- Send in an incomplete application



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Most importantly...

DON'T GIVE UP!



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Essential ingredients for a good LTBV business plan



- Some of the key ingredients and assessment criteria include:
 - Forecasts must be feasible;
 - Timelines must be reasonable and achievable;
 - Make the intentions clear;
 - Clear evidence that the Applicant is fully aware of the business plan being proposed and that they have actively contributed to its development;
 - Evidence submitted must be verifiable and credible;

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- Some of the key ingredients and assessment criteria include:
 - Satisfaction with “Overall Operational Management” guideline
 - Background experience must be relevant to the proposed business;
 - Explanations should not only be accurate but be credible and plausible;
 - Provide good illustrations and evidence;
 - Be practical and realistic;
 - Include evidence of thorough research
 - Obtain validated statistical or relevant industry data;
 - Include charts and/or diagrams where appropriate;

Remember...

“One size does NOT fit all!”

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Key Business Plan Headings:

- Business Plan Outline
 - Outline must be comprehensive yet also specific about the proposed venture.
- Financial Information
 - Applicant must be able to illustrate an understanding of the revenue and cost structures and how they will finance the business.
- Business Experience
 - Applicant must provide verifiable evidence of their background experience to show the relevance.
- Knowledge of the New Zealand Market
 - Show applicant's research and understanding of market condition, legal or taxation compliance issues



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To be frank...

**It is not always as straightforward
as it may seem...**

**And that is exactly why clients
instruct us to help them.**



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PLEASE NOTE:

That there is a lot more information contained in the paper and attachments you have been provided with.

There are also quite a lot of things happening with business immigration and we hope there will be some policy changes and clarifications in the short term.

Thanks and Good luck!



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