



QUEEN CITY LAW

PRACTICAL TIPS & KEY UPDATES

Investor & Business
Category Residence

INVESTOR CATEGORY

PRE-APPROVAL IN PRINCIPAL (“AIP”)

BUSINESS EXPERIENCE

“BJ5.30.1 Basic rules for business experience

a. Business experience is recognized for the award of points if it was acquired through ownership OR management level experience in, lawful business enterprise that has at least five full-time employees OR an annual turn-over of NZD \$1 million”

What is management level experience?

- You don't have to be the CEO to qualify but you need decision making power/authority
- Context e.g working for a multinational vs working for an SME
- Salary is important if you are now a shareholder
- The role – Finance, Operation, HR, Marketing
- Not necessary to have staff under you e.g business with a turn-over of \$1 million with two employees

INVESTOR CATEGORY

PRE-APPROVAL IN PRINCIPAL (“AIP”)

IPT cases

[2016] NZIPT 203048 – can’t disregard evidence just because it did not come from “official” sources e.g government agency

- Business experience acquired through ownership OR management level experience;
- PA must demonstrate experience in “planning, organisation, control, senior-change management, direction-setting and mentoring.”
- Lawful business enterprise – operates lawfully in a commercial environment with the goal of returning a profit. The organization must not be set up with the goal of returning a profit
- Business must have at least 5 full-time employees or an annual turnover of NZD \$1 million

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[2019] NZIPT 205420 – Can’t claim business experience from your country if in NZ on a student visa. Difficult to prove “management level experience”

[2019] NZIPT 205423 – 25% ownership does not mean you are working full-time.

INVESTOR CATEGORY

POST-APPROVAL IN PRINCIPAL (“AIP”)

NOMINATED ASSETS

BJ7.10

- Must be the funds initially nominated;
- Transferred through the banking system from the Principal’s bank account(s)

Scenario 1 – Reduction on the value of the nominated asset

- Always, nominate more than the requirement
- No discretion with Residence but could look at National Office and make submission for exceptional circumstance. Not recommended.
- Resubmit

Scenario 2 – Unintended Introduction of new money

- Resubmit. Ensure your client is aware that the nominated asset can easily be liquidated and that it is the same funds coming to NZ. It has to be clear, traceable and, valid (lawful transaction).

Scenario 3 – China money transfer issue

- Be careful of money transfer from China unless QDII.

INVESTOR CATEGORY

UPLIFT OF CONDITIONS

- Is it a breach if you lose money on your investment?
 - No, if beyond your control. No need to top up. However, issues might arise if there is a deliberate effort to cause the loss of capital.
- How does one breach the conditions on their residence?
 - Period of stay
 - If you arrive 9am on Monday and then leave Tuesday at 9am, then how many days does INZ count?
 - “Acceptable investment”
 - Money is taken out of NZ; or
 - Restructure the investment that is not “acceptable investment”;
- What happens when there is a breach?

Minister

 - Cancel condition
 - Not to cancel liable for deportation which then gives 42 days to make submission
 - The key is to inform the INZ if they are unable to meet the conditions and look at options to resolve e.g Investor 2 changing to Investor Plus application.

BUSINESS CATEGORY

UPDATE ON THE BUSINESS CATEGORY

Statistics – Entrepreneur Work Visa (01 July 2019 to 31 January 2020)

Application	Approved	Declined	Total	Approved %
Entrepreneur Work Visa (Interim)	11	62	73	15%
Entrepreneur Work Visa (Balance of 3 years)	27	7	34	79%
Entrepreneur Work Visa (Reconsideration)	1	4	5	20%
Entrepreneur Work Visa (Renewal)	20	15	35	57%
Total	59	88	147	

Top industries approved:

- Hospitality (restaurants)
- Export (goods or services)
- Information Technology
- Property Development
- Retail

BUSINESS CATEGORY

UPDATE ON THE BUSINESS CATEGORY

- Statistics – Entrepreneur Residence Visa (01 July 2019 to 31 January 2020)

Application	Approved	Declined	Total	Approved %
Entrepreneur Category	65	46	111	59%

BUSINESS CATEGORY

UPDATE ON THE BUSINESS CATEGORY

Applications we approved

- A new restaurant with 10+ full time NZ employees, significant capital investment, annual revenue growth and unique features
- An IT software business which relocated its headquarters to NZ. (developing software in NZ)
- A new IT software development business offering tailored products.
- An existing NZ export business which established a new branch and expanded its existing customer base
- Restaurants in low and medium density populated areas
- A pre-fabricated housing business

BUSINESS CATEGORY

Notable IPT CASE STUDIES

Issue: Money Transfer – EWV to ERV

- IPT – [2020] NZIPT 205531

Issue: Investment Capital vs Current Account

- IPT – [2018] NZIPT 205022



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THANK YOU



Bradley So



+64 9 970 8828



bradley@qcl.co.nz



www.qcl-immigration.co.nz