

CHOOSING THE RIGHT BUSINESS IMMIGRATION CATEGORY: Entrepreneur, Investor or Provincial Nominee?

by
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Introduction

Canada has 3 general categories of Business immigrant programs: Investors; Entrepreneurs; and Provincial Nominee programs. There is also a Self Employed category, but this is limited to people who can be self employed in cultural or artistic businesses, farms, or athletics.

Investors and Entrepreneurs must prove that they have had “Business Experience”. You can prove this if you have managed and owned shares in a business which met minimum performance criteria for at least 2 years in the past 5 years. Investors can also prove Business Experience if they have managed at least 5 employees for 2 out of the past 5 years; this is usually a much easier test.

Investors must also have net assets of at least \$800,000 CDN, and invest \$400,000 CDN for 5 years without interest into government guaranteed securities. They are passive investors, and are granted unconditional visas.

Entrepreneurs must have net assets of at least \$300,000 CDN, and invest in and manage a qualifying business for at least 1 year within the first 3 years after they land in Canada. They cannot be passive investors. Entrepreneurs are granted conditional visas; if they do not fulfill their immigration conditions, they could lose their immigrant status.

Provincial Nominee Programs are designed by different provinces to select immigrants on the condition that they invest into those provinces. These PNP cases are usually “fast tracked” for processing, and the immigrant can not only get much faster immigration processing, but can often get a work permit to come to Canada while the immigration case is being processed.

The BC government has 2 PNP programs: a Business Skills program, requiring a net worth of \$2 Million and an investment of \$800,000 anywhere in BC; and a Regional Business program, requiring a net worth of \$600,000, and an investment of \$300,000 outside of Vancouver.

Many foreign businesspeople can qualify under either category; however, it is often difficult to get objective advice, as many immigration advisors are motivated by fees and commissions rather than the client’s best interests. This article is to set out some of the pros and cons of each category to help you decide.

INVESTOR IMMIGRANTS

The Investor Immigration Program allows foreign businesspeople and their families to immigrate to

Canada by investing \$400,000 into government guaranteed securities (similar to bonds) for 5 years without interest. With very little investment risk, the only cost to the immigrant is the lost interest for 5 years. For example, in July 2005, 5 year guaranteed deposits at the Royal Bank of Canada were less than 2.2% per annum. On an after-tax basis, the net investment income would be even less. For investors who did not want to tie up their \$400,000, many banks will lend monies to purchase the Immigrant Investor Program investment with a down payment of about \$115,000.

The investor and his or her family all obtain unconditional immigrant visas, and are under no obligation to manage any business after they arrive in Canada. This program provides a fairly straightforward way for businessmen to immigrate to Canada with minimal obligations after they arrive. In fact, retired businessmen or executives may find this a very useful avenue to immigrate to Canada.

ENTREPRENEUR IMMIGRANTS

Entrepreneurs immigrants do not need to invest as much money as Investors: \$125,000 is a guideline. However, they must actively participate in the management of the business, hire at least 1 employee, and meet 2 out of 4 criteria:

- a) generate at least \$250,000 in sales;
- b) earn at least \$25,000 in profits;
- c) invest at least \$125,000 in net assets; or
- d) hire at least 2 employees.

This program has the advantage of less investment required, and a smaller net worth needed to qualify than the Investor Program. A closer look shows several potential pitfalls to the Entrepreneur immigrant, however. Here are some of the concerns:

1. Locating a suitable business: You must find a suitable business to invest in within 2 years. In the past, many entrepreneurs have not been able to find suitable businesses to remove their conditions in 2 years, resulting in their deportation. This can lead to upheavals of their whole families.
2. Investing in a business which fails: You may also invest into a business which doesn't meet the criteria for sales, earnings, employees or net assets. In that case, you may need to find another business, or run out of time.
3. Failure rate of businesses in Canada. Many studies have shown that the majority of new businesses in Canada fail within the first 2 years...whether they are local businesspeople or immigrants!
4. Loss not limited to your investment: If your business fails, and you have any personal guarantees

for bank loans, leases, or other creditors, you may lose more than your original investment.

5. Family with Conditional visas: All of your family members will also have conditional visas. If you have children in school, this can be very difficult to uproot them to move back to your former country.

PROVINCIAL NOMINEE PROGRAMS

PNP Programs have a number of advantages over the Entrepreneur program. Firstly, they will allow you to come to Canada with a Work Permit within several months, so your family can settle in Canada.

Secondly, PNP immigration cases are processed much faster than Entrepreneur cases; often within a year. Thirdly, the business has been pre-approved by the Provincial government, and all you need to do is to follow through on the agreed investment and other conditions; this takes the uncertainty out of the knowing if your business will qualify to remove your conditions.

The disadvantages to the PNP programs are the same business concerns as for the Entrepreneur: the risk of business failure. However, the specific risk (or opportunity) will vary from business to business.

THE CHOICES

If many of these criteria apply to you, you may want to consider a Provincial Nominee Program or the Entrepreneur program:

1. You have a fairly clear business plan, which would likely meet the criteria for a Provincial Nominee Program or the Entrepreneur conditions;
2. You are committed to carrying through that business plan;
3. You have relevant experience;
4. You have investigated the market in Canada;
5. You have some alternate business plans in the event that your first choice is not successful.

Conversely, if the foregoing does not apply to you, and obtaining and maintaining your Canadian immigrant status is important to you and your family, you should seriously consider the Immigrant Investor Program.

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