

ADVANTAGES OF THE EB-5 VISA PROGRAM FOR THE FOREIGN INVESTOR

The original EB-5 visa **Basic** program was first started in 1990 when the U.S. Congress passed a law allowing foreign investors to immigrate to the United States under an accelerated timetable if they invested at least \$1,000,000 and created ten (10) new jobs directly as a result of their investment. It was the investor's responsibility to prove that the investment money came from legitimate sources, that the amount of investment was at least \$1,000,000 and that at least ten (10) new direct jobs were created as a result of his investment. In return, the investor would receive any profits (or losses) generated by his investment and he also gained the privilege of immigrating to the United States immediately with his spouse and all unmarried children under twenty-one (21) years of age. Each family member would then be eligible to immediately receive a two year "Conditional Green Card". The investor and his family members then immediately became eligible for "Permanent Residency Status" after successfully submitting form I-829 to the USCIS. After submitting form N-400 (Naturalization Application) to the USCIS, United States citizenship then becomes available to all qualifying family members under this program.

The EB-5 visa **Basic** program was under-utilized because the investor living in a foreign country had great difficulty in identifying investments in the U.S. in which his investment money would be safe and secure, would give him a chance of making a reasonable return on his investment, proving to the USCIS that ten (10) direct jobs would be created by his investment and being able to manage his investment after immigrating to the U.S.

Because of under-utilization of the EB-5 visa **Basic** program, in 1993 the EB-5 **Basic** visa program was modified and the EB-5 visa **Pilot** program was created. This new program has subsequently been extended and is a second method of immigrating to the U.S. under an accelerated timetable.

The EB-5 visa **Pilot** Program allows the foreign investor the same privileges for immigration for himself and his family but creates several new benefits for the foreign investor not available in the EB-5 visa **Basic** Program. These include the following modifications.

1) The investment required can be lowered to \$500,000 instead of \$1,000,000, so long as the investment is made in a geopolitical area designated as a Targeted Employment Area (TEA) or in a Rural Area (RA). A TEA is defined as a geo-political area which has an unemployment rate equal to or greater than 150% of the national rate of unemployment. TEA's must be designated by state governors or their designees. RA's are defined as areas not within Metropolitan Statistical Areas (MSA's) that have a population of less than 20,000 people.

2) The requirement for job creation was changed to include both directly created jobs and indirectly created jobs.

3) "Regional Centers" were created to administer this program in designated geographical areas in the U.S. These Regional Centers are not governmental agencies but they are first evaluated and then must be certified by the USCIS before being

awarded a geographical territory. Regional Centers identify qualified investments that are safe, sound and secure for the foreign investor. They manage the investment and require project developers to provide the foreign investor with financial projections for the project, feasibility studies, economic impact studies and job creation studies that show the number of direct and indirect jobs expected to be created. They also provide logistical assistance to the foreign investor in the immigration process and they are allowed to pool investments so that the foreign investor can be joined with others to invest in much larger projects with possibly higher rates of return and greater safety.

4) Additionally, when a designated Regional Center administers an investment, the job creation requirement is changed from only direct job creation to both direct and indirect job creation. This makes many more projects qualify under the **Pilot** program. There is an advantage for the project developer if the project is not in TEA or Rural Area. That advantage is that a project requires ten (10) new jobs to be created per \$1,000,000 of investment if the project is not in a TEA or RA but a project requires twenty (20) new jobs to be created per \$1,000,000 of investment if the project is in a TEA or RA.

5) Regional Centers provide the foreign investor with extensive information and guidance in complying with all of the necessary paperwork associated with the EB-5 visa program. Investors are usually given options to choose between several projects for their investment. These projects have been evaluated by the Regional Center and have been submitted to the USCIS before being offered to the foreign investor.

6) The Regional Center does not guarantee a return on investment. Each project has its own risks and projected rate of return on investment. The foreign investor has the sole responsibility of deciding which investment is most suitable for his needs. All monies invested by the foreign investor are “at risk” for loss rather than gain just as is the case with U.S. citizens who invest in the project.

7) When the investment is sold and the foreign investor receives his return on investment, the foreign investor receives his initial investment back first. Profits from the investment are then calculated, and the foreign investor receives 60% of the net profits and MCFI then receives the remaining 40% of the net profits for investments requiring a minimum of \$500,000 and the split is 70% / 30% for investments requiring \$1,000,000.

8) All profits on businesses located in the U.S. (including EB-5 investments) are subject to the tax laws of the U.S., state and local governments just as is the case with all citizens of the U.S. All family members involved in the EB-5 investment program are considered as part of a “family unit” investing through the EB-5 program and for tax purposes their profits are treated the same whether or not the actual investment might be made by one of the family members who does not seek a green card or citizenship in the U.S.

9) Tax laws and tax treaties between the U.S. and various foreign countries may be complex and vary from country to country. Each foreign investor must consult his financial advisor in his native country for definitive tax advice related to his special situation. In general, profits on businesses which are owned in a citizen of a foreign country are subject to tax in that country and are not subject to U.S. taxation until such time as the foreign national becomes a U.S. citizen. MCFI and our Consultants recommend that all of our EB-5 Clients consult tax advisors, financial consultants and attorneys in their native land as well as in the U.S. for all tax related questions.

10) The EB-5 program allows the foreign investor and his immediate family (spouse and all unmarried children under the age of 21) to immigrate to the U. S., obtain a “green card” and proceed to U.S. citizenship with the benefits of a U.S. passport while at the same time they invest their money in a project of their choosing. The projects presented to potential EB-5 Clients by the Midwest Center for Foreign Investment are fully investigated and carefully chosen to provide as safe, secure and sound investments with as good a profit potential as possible. Projects are financially analyzed and underwritten by an independent third party prior to being presented to the MCFI investment committee for approval.

11) For those foreign nationals who wish to educate their children in the U.S., there is a great cost savings if their children have citizenship status in the U.S. and can take advantage of in-state tuition rates, grants and scholarships that are offered to U.S. citizens. Also, the paperwork and forms that are required for foreign students seeking H-1B visas or J-1 visas is much reduced and much less costly.

12) Foreign nationals (such as students or employees of foreign companies) who are already in the U.S. on other visas, such as J-1, H-1-B, L-1 or other type non-immigrant visas, may apply to MCFI for a change in their visa type to an EB-5 visa if they can invest the required legitimate funds in a project that has been recommended by MCFI and which is qualified by the USCIS for the EB-5 visa pilot program.

13) The foreign investor and his family are not required to live in the area of their investment but may live or work anywhere in the U.S. The investments chosen by the Midwest Center for Foreign Investment are in the form of limited partnerships or loans so that the foreign investor’s limit of liability is never greater than his investment in the project. U.S. investors in the same project do not receive preferential treatment over the foreign investor. Just as with any investment, all investors are at risk. MCFI presents investments that have been analyzed and underwritten by an independent financial analyst but neither MCFI nor our financial analyst can assume any responsibility for the decisions made by the foreign investor concerning the safety, soundness or profitability of the project chosen by the foreign investors. The foreign investor is solely responsible for making the decision to invest in a particular project.

14) MCFI offers an additional broad range of concierge services to its EB-5 Clients which are not available through other Regional Centers. These include help in identifying a place of residence in the U.S. that is available for purchase or rent, help in getting children enrolled in good schools, help in identifying sources of scholarships, help in setting up bank accounts, locating ethnic places of worship, ethnic groceries and restaurants and other services in order to help our investors integrate into the American lifestyle while maintaining the heritage of their native land. We will also furnish names and contact information for translators, legal and financial experts for those in need of these services.

Our Eb-5 Clients are our most valuable asset and we want to welcome them to the United States of America. America is the Land of Opportunity where Dreams of Freedom, Family and the Future are fulfilled. We want to help fulfill those dreams.

