

CANADA

IMMIGRANT INVESTOR PROGRAM

By Avi Gomberg

Avi Gomberg is a Canadian Immigration Attorney with Gomberg Dalfen, S.E.N.C. (www.gombergdalfen.ca). He obtained a Bachelor of Commerce with distinction in 1983 from McGill University in Montreal. He completed in 1986 his Common Law degree at Osgoode Hall Law School in Toronto and in 1987 he obtained his Civil Law degree from Laval University in Quebec City. Admitted to the Bar of Quebec in 1988 and to the Bar of Ontario in 1995. In 1992, Mr. Gomberg opened his own office specializing in immigration law. Avi Gomberg and Seth Dalfen formed the law firm Gomberg Dalfen (www.gombergdalfen.ca) in 2000. The firm focuses exclusively on immigration related matters and clients include foreign individuals and Canadian employers. Assistance is provided in the relocation to Canada of executives, businesspeople and skilled professionals.

1. HISTORY

Canada's immigrant investor program was created in 1986 and has gone through a number of changes over the years. The hallmark of Canada's Federal immigrant investor program has been that it is a passive, not at risk investment. On June 19, 2014, Bill C-31 became law in Canada and Federal immigrant investor program applications that were in the backlog were terminated and no new applications accepted. While at present there is no Canadian Federal immigrant investor program, one can still apply to immigrate to Canada as a Permanent Resident under the Quebec Immigrant Investor Program.

2. QUEBEC IMMIGRANT INVESTOR PROGRAM

2.1 Introduction

The Quebec Immigrant Investor Program, which also began in the 1980s, has assisted thousands of families to immigrate permanently to Canada over the past years. In many cases, these families might not otherwise have qualified to immigrate (due to mediocre language abilities and/or education and/or age barriers) under any of the other Canadian or Quebec permanent immigration programs.

2.2 The Basics

To be eligible for the Quebec Immigrant Investor Program, Quebec's immigration law and regulations require that the Applicant must:

1. Have, alone or with an accompanying spouse, including a de facto spouse, net assets of at least \$2 million Canadian dollars (approximately \$1.55 million U.S. dollars) obtained legally, excluding the amounts received by donation less than six months before the date on which the application was filed;
2. Have experience in management in a legal farming, commercial or industrial business, or in a legal professional business where the staff, excluding the investor, occupies at least the

equivalent of two full-time jobs, or for an international agency or a government or one of its departments or agencies (note that “Management experience” is defined as the exercise, for at least two years in the five years preceding the application for a selection certificate, of duties related to the planning, management and control of financial resources and of human or material resources under your authority; the experience does not include experience acquired in the context of an apprenticeship, training or specialization process attested to by a diploma); and

3. Intend to settle in the province of Quebec and sign an agreement to invest \$1.2 million Canadian dollars (approximately \$925,000 U.S. dollars) with a financial intermediary (broker or trust company) authorized to participate in the Investor Program (there are 22 financial intermediaries currently authorized by the Quebec government to participate in the Quebec Immigrant Investor Program). After five years, the monies are returned to the applicant but without interest. Alternatively, the \$1,200,000 Canadian dollars can be financed through the financial intermediary.

The assessment of an application will also take into account other factors such as age, the nature and duration of professional training and language skills.

At present the Quebec Immigrant Investor Program is the only possible passive (not at risk) immigrant investor program that exists in Canada.

2.3 Application Cap & Processing Times

For the 2018 – 2019 Quebec fiscal year (from April 1, 2018 – March 31, 2019), Quebec will accept 1,900 Immigrant Investor Program applications (with a cap of 1,235 for citizens of China). Interestingly, the 1,900 overall cap does not apply to those who have an advanced intermediate knowledge of the French language as attested to by a standardized French test recognized by the Quebec government. The application period is from September 10, 2018 through March 15, 2019.

Processing times are approximately 10 – 14 months (a majority of applicants are interviewed by the Quebec government) for the Quebec portion of the process. It then takes an additional approximately 18 – 30 months for the Canadian government to complete the immigration process (the Canadian government’s role is to check that there are no medical, criminal and security inadmissibility issues).

3. SOURCE OF FUNDS

Quebec carefully scrutinizes the source of all of a Quebec Immigrant Investor Program applicant’s funds, and not just the minimum CAD\$2 million Canadian net worth. The onus is on the applicant to transparently explain by way of a detailed prescribed narrative document (and possibly at an interview) all of their past and present economic activities and how they acquired their assets.

4. CANADIAN PERMANENT RESIDENCE – RESIDENCY OBLIGATIONS & CITIZENSHIP

Once Quebec and Canada approve an Application, the applicant, his/her spouse (including common-law or same sex spouse) and his/her children all become Canadian Permanent Residents and can reside in any Canadian province. To maintain one's Canadian permanent resident status a Canadian Permanent Resident must normally be physically present in Canada for at least 730 days in every five year period.

Canada does not have a citizenship by investment program and, as such, a foreign national must be "naturalized" to become a Canadian citizen.

A Canadian Permanent Resident can apply for Canadian citizenship after being physically present in Canada for 1,095 days during the five years immediately before the date of his/her Application for Canadian citizenship.

5. ALTERNATIVE PROGRAMS

While there are no other passive Canadian immigrant investor or entrepreneurial programs, options do exist to apply for Canadian Permanent Residence status under other business related programs which include:

1. Start-Up Visa Program
2. Self-employed Program (in cultural activities or athletics at a world-class level)
3. Provincial nominee business/entrepreneur programs

6. CONCLUSION

The Quebec Immigrant Investor Program is a viable passive investment option to immigrate to Canada with no risk. As such, it is worth considering by investor applicants who have management experience and want for themselves and their immediate family members to settle in Canada and become Canadian Permanent Residents.