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ENTREPRENEURS IMMIGRATING TO CANADA

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This is a general overview of Canadian immigration law for individuals interested in immigrating as an entrepreneur.

BUSINESS CLASS APPLICANTS

Business class applicants can apply for permanent residence in Canada as an investor, entrepreneur or self-employed person. An applicant must choose to apply under only one of these classes and once the application is submitted, the class cannot be changed.

ENTREPRENEUR CLASS SUMMARY

To qualify as an entrepreneur, an applicant must have business experience that has been obtained within five years before the date of application. An applicant must also pass an assessment based on five selection criteria which include age, education, official languages, experience and adaptability.

The applicant must have both the intention and ability to actively manage and control at least 33.33% of equity of a "qualifying Canadian business"; have a minimum net worth of \$300,000 (Cdn) and the business must also create at least one new full-time job for a permanent resident of Canada or a Canadian Citizen. These requirements must be met within three years of obtaining permanent resident status.

DEFINITION OF ENTREPRENEUR

In order to fall within the definition of entrepreneur, the applicant must have business experience. For at least two of the five years preceding the date of the application, the applicant must have managed a business (other than a business operated primarily for the purpose of earning investment income) in which two of the following have occurred:

- (i) the percentage of equity in the business multiplied by the number of full-time jobs is equal to at least two full-time jobs per year;
- (ii) the percentage of equity multiplied by the total annual sales is equal to at least \$500,000;
- (iii) the percentage of equity multiplied by the net income for the year is equal to at least \$50,000; or
- (iv) the percentage of equity multiplied by the net assets at the end of the year is equal to at least \$125,000.

In addition to the above, the applicant must have controlled either 100% of the business if the business is a sole proprietorship; a percentage of the voting shares if the business is a corporation; or a percentage of the profit or loss if the business is a partnership or joint venture.

The applicant must also have a net worth of at least \$300,000 and have the intention and ability to control at least 33.3% of a Canadian business for which there is, in any year within three years of the applicant becoming a permanent resident, proof of two of the following is required (i) the percentage of equity multiplied by the number of full-time jobs is equal to at least two full-time jobs per year; (ii) the percentage of equity multiplied by the total annual sales is equal to at least \$250,000; (iii) the percentage of equity multiplied by the net income for the year is equal to at least \$25,000; (iv) the percentage of equity multiplied by the net assets at the end of the year is equal to at least \$125,000.

The applicant must have the intention and ability to provide active and ongoing management to the Canadian business; and create at least one full-time job for one or more Canadian citizens or permanent residents other than the entrepreneur applicant and their family members.

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The applicant is required to sign a declaration stating that they intend and will be able to meet the conditions set out above within three years of obtaining permanent resident status.

The conditions of permanent residence imposed on entrepreneur applicants and their family members are removed once the entrepreneur applicant satisfies the conditions.

ASSESSMENT BASED ON SELECTION CRITERIA

After meeting the definition of entrepreneur, the applicant is then assessed against the following five selection factors: age, education, official languages, experience and adaptability.

For each selection factor, a specific number of selection points are allotted. An applicant with a score of less than 35 out of 100 may be refused. Obtaining 35 points for an entrepreneur is generally not very difficult. For example, an applicant with four years of business experience obtained within the last five years results in 30 points, and five years of business experience results in 35 points.

If you are seeking permanent status in Canada or have specific questions as to your immigration status, you should consult the *Immigration and Refugee Protection Act* and the respective Regulations or consult a lawyer experienced in immigration matters. This article should only be used for reference purposes.

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