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**EMPLOYMENT CREATION
VISAS (PERMANENT
INVESTOR VISAS)**

EB-5

**CHECKLIST OF DOCUMENTS REQUIRED TO
SUPPORT EMPLOYMENT CREATION VISAS
(PERMANENT INVESTOR VISAS)**

Initial evidence to accompany petition.

A petition submitted for classification as an alien entrepreneur must be accompanied by evidence that the alien has invested or is actively in the process of investing lawfully obtained capital in a new commercial enterprise in the United States which will create full-time positions for not fewer than 10 qualifying employees. The petitioner may be required to submit information or documentation that the Service deems appropriate in addition to that listed below.

(1) To show that a new commercial enterprise has been established by the petitioner in the United States, **the petition must be accompanied by:**

(i) As applicable, articles of incorporation, certificate of merger or consolidation, partnership agreement, certificate of limited partnership, joint venture agreement, business trust agreement, or other similar organizational document for the new commercial enterprise;

(ii) A certificate evidencing authority to do business in a state or municipality or, if the form of the business does not require any such certificate or the State or municipality does not issue such a certificate, a statement to that effect; or

(iii) Evidence that, as of a date certain after November 29, 1990, the required amount of capital for the area in which an enterprise is located has been transferred to an existing business, and that the investment has resulted in a substantial increase in the net worth or number of employees of the business to which the capital was transferred. This evidence must be in the form of stock purchase agreements, investment agreements, certified financial reports, payroll records, or any similar instruments, agreements, or documents evidencing the investment in the commercial enterprise and the resulting substantial change in the net worth, number of employees.

(2) To show that the petitioner has invested or is actively in the process of investing the required amount of capital, **the petition must be accompanied by** evidence that the petitioner has placed the required amount of capital at risk for the purpose of generating a return on the capital placed at risk. Evidence of mere intent to invest, or of prospective investment arrangements entailing no present commitment, will not suffice to show that the petitioner is actively in the process of investing. The alien must show actual commitment of the required amount of capital. Such evidence may include, but need not be limited to:

(i) Bank statement(s) showing amount(s) deposited in United States business account(s) for the enterprise;

(ii) Evidence of assets which have been purchased for use in the United States enterprise,

including invoices, sales receipts, and purchase contracts containing sufficient information to identify such assets, their purchase costs, date of purchase, and purchasing entity;

(iii) Evidence of property transferred from abroad for use in the United States enterprise, including United States Customs Service commercial entry documents, bills of lading, and transit insurance policies containing ownership information and sufficient information to identify the property and to indicate the fair market value of such property;

(iv) Evidence of monies transferred or committed to be transferred to the new commercial enterprise in exchange for shares of stock (voting or nonvoting, common or preferred). Such stock may not include terms requiring the new commercial enterprise to redeem it at the holder's request; or

(v) Evidence of any loan or mortgage agreement, promissory note, security agreement, or other evidence of borrowing which is secured by assets of the petitioner, other than those of the new commercial enterprise, and for which the petitioner is personally and primarily liable.

(3) To show that the petitioner has invested, or is actively in the process of investing, capital obtained through lawful means, **the petition must be accompanied, as applicable, by:**

(i) Foreign business registration records;

(ii) Corporate, partnership (or any other entity in any form which has filed in any country or subdivision thereof any return described in this subpart), and personal tax returns including income, franchise, property (whether real, personal, or intangible), or any other tax returns of any kind filed within five years, with any taxing jurisdiction in or outside the United States by or on behalf of the petitioner;

(iii) Evidence identifying any other source(s) of capital; or

(iv) Certified copies of any judgments or evidence of all pending governmental civil or criminal actions, governmental administrative proceedings, and any private civil actions (pending or otherwise) involving monetary judgments against the petitioner from any court in or outside the United States within the past fifteen years.

(4) **Job creation -- (i) General.** To show that a new commercial enterprise will create not fewer than ten (10) full-time positions for qualifying employees, **the petition must be accompanied by:**

(A) Documentation consisting of photocopies of relevant tax records, Form I-9, or other similar documents for ten (10) qualifying employees, if such employees have already been hired following the establishment of the new commercial enterprise; or

(B) A copy of a comprehensive business plan showing that, due to the nature and

projected size of the new commercial enterprise, the need for not fewer than ten (10) qualifying employees will result, including approximate dates, within the next two years, and when such employees will be hired.

(ii) **Troubled business.** To show that a new commercial enterprise which has been established through a capital investment in a troubled business meets the statutory employment creation requirement, the petition must be accompanied by evidence that the number of existing employees is being or will be maintained at no less than the pre-investment level for a period of at least two years. Photocopies of tax records, Forms I-9, or other relevant documents for the qualifying employees and a comprehensive business plan shall be submitted in support of the petition.

(5) To show that the petitioner is or will be engaged in the management of the new commercial enterprise, either through the exercise of day-to-day managerial control or through policy formulation, as opposed to maintaining a purely passive role in regard to the investment, **the petition must be accompanied by:**

(i) A statement of the position title that the petitioner has or will have in the new enterprise and a complete description of the position's duties;

(ii) Evidence that the petitioner is a corporate officer or a member of the corporate board of directors; or

(iii) If the new enterprise is a partnership, either limited or general, evidence that the petitioner is engaged in either direct management or policy making activities. For purposes of this section, if the petitioner is a limited partner and the limited partnership agreement provides the petitioner with certain rights, powers, and duties normally granted to limited partners under the Uniform Limited Partnership Act, the petitioner will be considered sufficiently engaged in the management of the new commercial enterprise.

(6) If applicable, to show that the new commercial enterprise has created or will create employment in a targeted employment area, **the petition must be accompanied by:**

(i) In the case of a rural area, evidence that the new commercial enterprise is principally doing business within a civil jurisdiction not located within any standard metropolitan statistical area as designated by the Office of Management and Budget, or within any city or town having a population of 20,000 or more as based on the most recent decennial census of the United States; or

(ii) In the case of a high unemployment area:

(A) Evidence that the metropolitan statistical area, the specific county within a metropolitan statistical area, or the county in which a city or town with a population of 20,000 or more is located, in which the new commercial enterprise is principally doing business has experienced an average unemployment rate of 150 percent of the

national average rate; or

(B) A letter from an authorized body of the government of the state in which the new commercial enterprise is located which certifies that the geographic or political subdivision of the metropolitan statistical area or of the city or town with a population of 20,000 or more in which the enterprise is principally doing business has been designated a high unemployment area. The letter must meet the requirements of 8 CFR § 204.6(i).

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IMMIGRANT INVESTOR VISA CHECKLIST

INFORMATION ABOUT U.S. OPERATIONS

- Copies of passports of majority shareholders from treaty country
- Articles of Incorporation and certificate from state
- Bylaws
- Stock Certificates
- Certificate of Officers
- Business License
- Certificate of Qualification of Foreign Business
- Partnership Agreement or Joint Venture Agreement
- Receipts for equipment, supplies
- Bank account statements showing capitalization
- Loan agreements, if any
- Copies of advertisements, press releases, etc. about new office
- Trade references
- Licenses, if required for type of business or profession
- Copies of telephone bills re international calls to treaty country
- Sample contracts with customers/clients; invoices re transactions
- Letters of credit
- Business plan re projected revenues, costs, staffing
- Letters from chambers of commerce, trade commissioners, home office re amount of initial investment as "substantial" and reasonable for start up of this type of business
- Lease or deed to office/facility space
- Trade or professional association memberships
- Awards, certificates
- PR releases
- Marketing brochures/firm resume
- Photos of facilities, products, etc.
- Organizational chart re employees; projected organization
- Customer/supplier list
- Relevant patents, trademarks, copyrights, if any
- Statistics re volume and amount of trade between US and treaty country (past performance and projected)

INFORMATION ABOUT RELATED OPERATIONS ABROAD

same as above

- Recent annual report, and/or tax return

INFORMATION ABOUT PROPOSED POSITION

- Job description: highlight managerial or executive functions or special or unique duties or those functions that are required to "direct and develop" the investment.
- Minimum requirements to perform the job.
- Why could an American not do this position?

INFORMATION ABOUT ALIEN

- Resume
- Copies of diplomas, degrees and relevant transcripts
- Verification of relevant employment in US and abroad: Exact dates of hire; job title, job duties, location within organization, number, type of employees supervised. Optional: info about employer, recommendation about alien's performance.
- Membership in trade or professional societies
- Articles written about or by alien
- Awards or commendations received.
- Number and type of employees supervised before and in future.

GENERAL INFORMATION

All documents in a foreign language must be translated verbatim. The Translator must certify under oath that the translator is competent to translate into English. Notarized translations are preferred.

Original documents are preferred, but may not be ultimately submitted to the government. Attorneys may certify copies of originals.

IMMIGRANT INVESTOR
SUPPLEMENTAL QUESTIONNAIRE

1. Describe proposed business venture.

2. The business will be built from scratch. Yes___ No___ An existing business will be purchased. Yes___ No___ If the business will be purchased, is it a franchise? Yes___ No_ If yes, do you have a copy of the franchise agreement?

3. Do you intend to personally invest your own money? Yes___ No___.

4. If yes, how much do you intend to personally invest? \$US
How much will be cash? _____ How much will be other forms of financing?

5. Will there be other investors? Yes___ No___ If yes, who?

Please give their country of nationality (citizenship) and proportionate interests in the business.

6. When do you propose to make the initial investment of

Capital
Inventory
Machinery, Equipment, Supplies, etc.?

7. Projected gross income:

First year
Third year
Fifth year

8. Projected staffing (numbers and types of positions):

First year

Third year

Fifth year

How soon could this type of business support at least 10 U.S. citizens or lawful permanent residents or persons with work permission unrelated to your own family?

Do you propose to use independent contractors (e.g., subcontractors, commissioned sales reps, etc.)? Yes__ No

If yes, how many initially?

9. Proposed job duties of prospective visa holder(s): (Give title and describe functions) Also, state whether you will be actively involved in the day-to-day operations of the business.

10. Where do you propose to locate the business?

How many sites within the U.S. are proposed?

11. Will the U.S. operation be a branch, subsidiary, parent of or joint venture with an overseas operation? Yes_____ No_____ If yes, please describe

Proposed form of business: corporation__ partnership__ sole proprietorship__ joint venture

12. If the business will be engaged in trade of goods or services, will at least 50% of the total annual trade volume be between the U.S. and your country of nationality? Yes__ No Describe any other countries with whom trade will be conducted? (Imports or Exports)

13. Describe your management or executive experience during the last five years, including numbers and types of people supervised or divisions or functions managed. Also, describe any previous entrepreneurial experience in the U.S. or abroad.

14. If you have not held a management or executive position, please describe your technical

skills, emphasizing those skills and expertise which are unique, proprietary to the company, and/or least likely to find within the US labor force.

15. Indicate those family members who will accompany you to the U.S. Give children's ages and identify those individuals who need to work. (Accompanying relatives cannot be assured of receiving work permission). Also identify those members who hold passports from countries other than your country of nationality.

Please attach your resume which should include a detailed chronology of your education, work history, special achievements, articles published by you or about you or your business, awards received, professional and trade memberships.