

JOHN HU MIGRATION CONSULTING

EB-5 FAQs:

What is the history of the EB-5 visa category?

The EB-5 visa category started in 1990. Regional Centers began in 1993.

During the mid-1990's, several companies competed for investment capital from foreign investors for the EB-5 program. Most of the companies did not offer sound investment opportunities, did not raise the full one million dollar investment capital or hire the required number of employees.

The INS wanted to stop program abuse, which resulted in lawsuits. So, the EB-5 program was effectively placed on hold between 1998 and 2002. Congress passed a new law in 2002 to protect the pre-1998 investors. Also, in a case commonly known as "Chang", the 9th Circuit Court of Appeals ruled that the INS may not apply their new regulations retroactively. Then, in August 2003, the INS began approving regional center petitions for the first time since 1998.

It is common knowledge that EB-5 immigration petitions, based on sound investments in designated regional centers for the full one million dollars as prescribed by the rules, with the proper supporting documentation, should be approved.

What are some of the benefits of the EB-5 visa program?

- Qualifying investors, their spouse and their minor children (under 21 years old) will be granted U.S. Lawful, Permanent Residency
- No minimum requirements as to age, ability to speak English, employment experience, or education

- Investor and family may live/work anywhere in the United States. Minor children may obtain employment, subject to age, state and governmental laws and regulations.
- Educational benefits including admission to universities at the same cost as U.S.residents
- The EB-5 program does not require immigrant investors to manage their investment on a day-to-day basis.
- After five years, the investor and their family may obtain U.S.citizenship, subject to meeting all immigration requirements, as mandated under the law.

Is EB-5 a truly passive investment?

The EB-5 regulations require involvement in management or policy making. The regulations deem a limited liability corporation (LLC), which is properly structured and conforms to the Corporations Act, as sufficiently engaged in the EB-5 enterprise.

Where can I find a copy of the relevant EB-5 law and regulations to review?

The United States Citizenship and Immigrations Services website provides immigrant investment visa information at: <http://www.uscis.gov/portal/site/uscis>.

I want to invest in the USA and get a Green Card. Is the EB-5 visa program suitable for me?

The EB-5 visa permits employment in the U.S.for the investor and their family. The EB-5 visa gives you the opportunity and flexibility to choose how you want to satisfy the employment requirement. If you do not want to actively manage your business, you should consider a regional center EB-5 investment.

What if I want to manage my own business?

If you want to manage your own business, consider an L-1 (Non-Immigrant Intra-company Transferee), E-2 Visa (Non-Immigrant Treaty Investor), or EB-5 Alien Entrepreneur Investment by investing \$1,000,000.00 into your own business which you control, and create the necessary 10 new jobs within a new enterprise. If your goal is to have a Green Card and not to actively manage a business, it can be less expensive to utilize a structured investment program like a Regional Center EB-5 category rather than starting and maintaining your own business.