

SPANISH VISAS AND RESIDENCY FOR INVESTORS.

With effect from the 29-09-2013, the Spanish Government finally fully approved the Investors' Support and Internationalization Act 14/2013, as amended by Act 25/2015 which includes, among others measures, a Spanish residency programme that will allow investors to become permanent investors if they invest, at least, €500.000 in a property.

The law was published on the Spanish Official Gazzete (BOE) and one of the most crucial aspects of it is that it facilitates people traveling to, or residing in Spain, who intend to carry out a 'relevant investment'.

What is a relevant investment?

According to article, 63, the following will suffice to attain residency in Spain:

- * **An investment of at least €2,000,000 in Spanish Government bonds.**
- * **An investment of at least €1,000,000 in shares of Spanish companies.**
- * **An investment of at least €1,000,000 with a Spanish-based bank or financial entity (basically, depositing that money in a savings or fixed deposit account).**
- * **An investment of at least €500,000 in a Spanish property, per applicant, provided the first €500,000 of the property value is unencumbered (mortgage free).**
- * **A business investment that is to be carried out in Spain and is deemed of public interest for which purpose, at least one of the following conditions will be considered relevant:**
 - a) jobs it will create
 - b) socioeconomic impact in the geographical area where the activity is to be carried out and
 - c) relevant contribution to technological or scientific innovation.

Investment by foreign companies also qualify for residency provided it does not originate from an offshore tax haven, as per Spanish laws, and that the investor owns, directly or indirectly, the majority of its voting rights and has also the right to designate or remove the majority of the members of the board of directors.

Investment Residency Visa and Investment Residency Authorization

The Act has created 2 types of documents to enter and reside in Spain, the Residency Visa and the Residency Authorization.

The Residency Visa is valid for up to 1 year, and the Residency Authorization is valid for up to 2 years, which can be extended for successive 5-year periods.

In addition to meeting the conditions to qualify for the Investors' Residency Visa, an applicant for an Investors' Residency Authorization will have to comply with the following:

- * **Hold an Investors' Residency Visa that is not overdue by more than 90 days over the expiration date.**
- * **Prove that the investment that enabled the applicant to receive the Visa is still in place.**

What other requirements have to be met?

The Act will also require that any applicant complies with the following (standard in the Non- Lucrative or Non-Working Residency Authorization):

- * **Not be in Spain irregularly.**
- * **Be over 18 years of age.**
- * **Absence of a criminal record.**
- * **Have medical insurance**

*** Have sufficient money or financial means to support the applicant (and family) during the period of stay in Spain: if we are guided by the prerequisites of the Non- Lucrative Residency Permit, the applicant will need to prove earning of at least €2,128/month, plus an additional €532/month per additional family member.**

APPLICATION PROCESS AND TIMESCALES

The Residency Visa will be applied for and granted by the Spanish Consulate of the demarcation of the applicant. The Residency Authorization will be applied for and granted by Directorate General of Migrations. An application for a Residency Visa will be resolved in a maximum period of 10 days, except where the application is subject to the EU Visa Code. The Residency Authorization will be granted in a maximum period of 20 days from application after which period, if the Consulate has not responded, the application will be presumed granted.

HOW WOULD IT WORK, IN PRACTICAL TERMS?

An applicant that wishes to apply for a Residency Visa under the Act will first need to apply for an ordinary visa, with a view to travel to Spain and investigate investment options/opportunities, meet with lawyers, real estate agents, banks, etc. Once a decision is made and the investment carried out, the Residency Visa will have to be applied for at the Consulate (which implies going back to the country of origin).

Obviously, it is possible that an investor decides to proceed with the investment operations remotely (for instance, purchasing a property via a lawyer, with a Power of Attorney) and, on conclusion of the property conveyance transaction, he applies for a Residency Visa with the required proof of his investment i.e. Property Title Deeds.

The Act does stipulate that the investment needs to be maintained during the period of the validity of the Residency Visa or Residency Authorization, and that routine checks may be carried out.

DO I HAVE TO BE IN SPAIN FOR MORE THAN 6 MONTHS DURING ANY YEAR PERIOD?

Specifically, no. The Act stipulates that Residency Visa or Residency Authorization holders do not need to spend more than 6 months in Spain, with a view to renew the permit (which implies that, provided they are in Spain at least once during the period of the Residency Visa, they are pretty much free to spend their time as they wish, in Spain or in any other country).

CAN I BECOME A PERMANENT RESIDENT IN SPAIN OR A SPANISH CITIZEN THROUGH THIS METHOD?

Yes. However, the law requires that the authorization card holder spends the minimum required time in Spain prior to applying for citizenship.

CAN A PERSON STILL APPLY FOR PERMANENT RESIDENCY WITHOUT HAVING TO INVEST THE SUMS IN THIS LAW I.E. BUYING A PROPERTY WORTH SAY €200,000, WITH A €180,000 MORTGAGE?

The Act has not modified the 2 other main types of residency permit applications, which are: • Non-Lucrative Residency Permit (Autorización de Residencia No-Lucrativa)

*** Self-Employed Work and Residency Permit (Autorización de Residencia y Trabajo Por Cuenta Propia) This means a person can still apply for residency in Spain via the regular (and above) procedures.**

CAN I APPLY IF I ALREADY HAVE A (UNENCUMBERED) PROPERTY IN SPAIN WORTH €500,000?

The Act does not include investors who already had a property in Spain prior to its enactment although, nothing stops them from selling, buying again and then apply for the Investors Residency Visa and further, the Investors Residency Authorization. People that comply with the other financial criteria (having cash deposits, shares etc.) can apply.