

Brazil: Myths and Facts Regarding the Investment Visa Program

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Firstly, the Investment Visa Program was created by the Brazil's National Immigration Council Resolution Number 60/2004 with the intent to increase foreign investments in Brazil by giving, in exchange, direct legal residency to any foreign Investor who brings no less than USD\$50,000.



How It Works

In short, after a few initial steps and registrations, a foreign individual must transfer from his or her own bank account abroad at least USD\$50,000, which shall be integrated to an existing corporation/business and deposited into its corporate bank account. Once that is done, a certificate is issued by the "Banco Central" qualifying the foreigner individual as a Foreign Investor and with that, he or she may be able to apply for the Investment Visa Program before the "Ministerio do Trabalho e Emprego".

Facts

1. A permanent visa, such as the investment visa, allows a foreigner to live and work in Brazil. An official Brazilian resident alien with a permanent visa enjoys every right and obligation of a Brazilian citizen, except voting and political rights.
2. The resident alien is also allowed to bring his or her family and come and go as he or she wishes. A minimum stay period in Brazil is one entrance to Brazil every other 2 years, in order to maintain his or her residency status before the Brazilian authorities.
3. The investment and transferring of funds must be made throughout and into a Brazilian Corporation. It can be made into his or her newly opened company or into an already existing Brazilian corporation.
4. The corporation can then invest the monies at its convenience, including real estate, bank investments, stocks, etc. You can choose your own investment, but it must be done in the name of your corporation. Most foreigners, usually those who are already purchasing real estate, take advantage of it. But I have seen many foreigners recently investing in stocks and even savings accounts, where interest rates and dividends are much higher than those applied and seen in their native countries.
5. Monies previously transferred to Brazil by foreigner to a Brazilian individual, for any reason; do not fulfill the requirements of this visa.
6. Exceptionally, when bringing less than USD\$50,000, a foreigner must produce and file a business plans first, susceptible of a difficult approval of an Immigration Board, and this exception does create employment requirements, as opposed to

the transfer of no less than USD\$50,000.

7. This type of permanent visa is valid for 5 years, by then the foreign resident must show proof that the corporation is in good standing and that money was not taken back to the country of origin. After the first period of 5 years and one renewal, money can be taken back and there will not be any requirements for the subsequent renewal, which will be valid for 9 years. The second residency carries no requirements and is valid for nine years and may be renewed as many times resident alien deem necessary for the same period.

8. Resident aliens may apply for Brazilian Citizenship throughout this visa after 4 years of official legal residency in Brazil, as long as the foreigner did not leave Brazil for more than 18 months during this 4 years period and is fluent in Portuguese.

Myths

1. There are employment requirements; *false*, there are no employment restrictions when a foreign investor is bringing/transferring USD\$50,000 or more.

2. Monies that were already transferred to Brazil may qualify; *false*, any foreigner individual that did not followed all the rules and prior registrations of the Visa Program did not fulfill the Program's requirements.

3. Invested money can never be repatriated; *wrong*, it must remain in the country for at least 5 years and one visa renewal, after that can be sent back. Only the dividends may be sent to home country at any time.

4. The corporation may be closed when the visa is granted; *not true*, it must be kept open and in good standing before all governmental authorities, including the Tax Authorities, for at least 5 years.

5. The visa can be processed via the Consulates abroad; *wrong*; procedures are exclusively done in Brazil, the Brazilian Consulates and Embassies abroad only stamp your passport upon the Ministry's of Labor official approval.

6. Brazilian Embassies and Consulates may help you; *not true* they do not open Brazilian Corporations nor process the visa's approval with the Ministry of Labor in Brazil; all must be done in Brazil.

7. You need a Brazilian partner/share holder; *false*, the corporation can be wholly owned by foreign individuals and/or foreign corporations. Only the administrator must be a resident in Brazil.

Cautions When Opening Brazilian Corporations

1. By Law, all Brazilian corporations/companies must have a local administrator or registered agent. This person must be a Brazilian citizen or a legal resident alien with no work restrictions. The administrator will be responsible for the corporation's activities before all of the different governmental authorities, banks and third parties. In this case you shall always appoint a person that you trust. If you do not have someone in Brazil that you can trust 100%, licensed Lawyers and Accountants may be the temporary administrator/registered agent while you are waiting for your permanent residency. Having said that NEVER give a full power of attorney to someone you do not know or trust to be the Administrator of your corporation,

otherwise this person will have full access to the corporate bank account and manage the funds at his or her discretion without written or prior authorization from the owners.

2. I always suggest my clients to open their own corporations. Nonetheless, you can buy into any existing corporation, however, in this case you will also be buying any hidden debts or liabilities this corporation has. Plus, you will not have any type of control on your invested money and in any corporate decision.

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DISCLOSURE: All information herein given is merely for elucidative purposes. It reflects current Legislation, which can be modified in the future. In case of questions regarding a particular case/issue, always consult with your own attorney.