



IMMIGRATION MATTERS



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FIVE IMPORTANT QUESTIONS

Over my years of practice, I have noted that there are five questions that foreign nationals usually ask prior to applying for immigration. Here are the questions and the answers:

1. Will buying a house or a business help my immigration to Canada?

Buying a house does not increase chances of entry, but nor does it hurt. The purchase of a home certainly shows a connection to Canada and the home is ultimately treated as a part of the overall net worth of the individual, but simply owning a house and living here as a visitor will not affect the selection process.

Buying a business, however, could result in a faster entry into Canada based on a temporary work permit. CAUTION! Buying a business must be part of a comprehensive immigration strategy. The purchase must be strategized with other qualifying factors, such as overall asset base, the projected performance of the business and previous business experience. These important aspects are examined and must be approved by the provincial government and/or the federal immigration department before any business is purchased. It is best to seek professional taxation and legal advice prior to purchasing a home or business.

2. As a foreigner can I get a mortgage?

The answer is yes. The requirements for obtaining a mortgage to finance a purchase, whether a home or a business, will depend on the institution with which the foreign national will do business. Generally speaking, there is usually not a problem in securing mortgages with more-established financial institutions. These institutions will usually require a letter of introduction from the previous banking facility with which the foreigner has done business in his or her own home country. Previous income in the home country will also be verified. Also, institutions may require a greater percentage of the purchase price as a down payment.

3. How long can I stay in Canada? (Can't I just go out for a day and come back?)

Generally, a person is allowed a six month entry as a visitor. If a second home is purchased, one can bring in a reasonable amount of furniture as a "seasonal resident" without paying any duty. There is no corresponding regulation in the immigration act (IRPA) that states the person has to leave for six months before returning, so multiple entries can be allowed. CAUTION! You cannot "flagpole" continuously. Flagpoling means leaving Canada for a few days and then returning to Canada. Although such re-entry may be allowed on one or two occasions, the person does run a risk of being refused entry into Canada because he or she is living in Canada as a resident under the guise of being a visitor. The foreign national must maintain substantial roots with his or her home country. See the following website: <http://www.victorialaw.com/details/articles/Flagpoling.pdf>

4. If I rent out my home, what are the tax implications?

Occasionally, foreign nationals will purchase a home, reside in it for a few months of the year and rent it out for the balance. NOTE: Special tax rules do apply to such situations and Canadian tax returns must be filed by the foreigner. In fact, if the taxation payments are not set up properly, the foreign landlord will be required to pay 25% of the net rental income per month to the tax department as a holdback until the tax returns are filed. However, such a drastic reduction of rent can be avoided if a Canadian resident is appointed on behalf of the foreign national to make the filings at the end of the year. CAUTION! When selling a residence, a foreign national must file a clearance certificate well in advance of the sale or there can be up to a twenty five percent holdback of the full selling price until the clearance certificate is obtained from the tax department.

5. Can I retire in Canada?

There is no retirement category under the immigration regulations. Such an avenue did once exist, but the retirement avenue of immigration was phased out in the late 1980s.

If an individual is buying a home with the view of ultimately retiring here, it is important to seek legal immigration advice immediately. Qualifying for immigration is time sensitive in that points are awarded based on the number of years of experience in both business and in work as well as the age factor. It is important that as soon as individuals are considering purchasing a home here in Canada that they seek immediate immigration legal advice to ensure that a proper strategy exists for the potential permanent entry in the future. There are also health and age-related questions which may impact the admissibility. See the following website: <http://www.victorialaw.com/details/articles/retirees.php>



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