

Residency & Citizenship

words | Ian Le Breton

I have written on several occasions about residency in Gibraltar and in particular the Qualifying (Category 2) Individuals Rules 2004 aimed at High Net Worth Individuals — or HNWIs as wealth managers call them — together with the “High Executives Possessing Special Skills” regime (formerly covered by the earlier Category 3 and 4 rules). As the terms suggest, the legislation aims to encourage qualified wealthy residents and professional talent to Gibraltar.

For ease we refer to these categories to “Cat 2” and “HEPPS” respectively. There are good reasons for considering either scheme. Regular readers will recognise my standard menu of Gibraltar’s attributes — benign tax regime, absence of VAT, EU membership, Mediterranean location, British-style systems of government law and currency, our impressive new airport and other infrastructure. Not to mention the climate.

It was announced in this year’s Gibraltar Budget that the Cat 2 scheme was to be reviewed. I think it safe to assume that the scheme will be enhanced considerably following the changes currently under consideration. There are several ways this could be achieved and we await the publication of the new rules with interest.

A great deal of attention has been paid to those countries that have developed specific residency programmes in recent years, particularly those that go further than simple residence and in some cases lead to citizenship and the issuing of a passport. These arrangements vary from place to place so I thought it might be helpful to consider some of the available options

In Gibraltar’s case it is possible for a non-Gibraltarian from anywhere — not just from the EU — to obtain citizenship (although Planet Zog might be stretching it!). This could be achieved by marriage or by bringing a specific business or investment project to the Rock. However it’s a long process that can take up to ten years to complete.

Indeed it can be assumed that under the

right circumstances, almost any country on a case-by-case basis can arrange citizenship. A “host” country may decide to issue a passport for specific economic or perhaps political reasons. The February 2013 grant of Russian citizenship to French actor Gerard Depardieu, who objected to the rising tax rates in his homeland, is a recent high profile example. Athletes — famously Zola Budd — seem to get passports just before major championships.

However a few countries worldwide have adopted special citizenship programmes that lead in most cases to the issuing of a passport. Citizenship can be attractive for all kinds of reasons. Typically these include sheltering from unstable or dangerous situations in a home country, as well as tax, family and other lifestyle choices. Applications are carefully

controlled and subject to rigorous tests; clear guidelines are set out to ensure that applicants meet the criteria, which vary from place to place.

It is important to be clear on the difference between residency and citizenship. Residency is fairly straightforward. Most countries recognise someone as being resident in their jurisdiction by the simple test of how many days they are physically present in that place. Interestingly in the case of Gibraltar's Category 2 scheme, there is no "minimum nights spent" clause — so in theory one might be considered resident without actually having to come here at all. In practice, applicants are required to either rent or purchase eligible accommodation (and, not unreasonably, this cannot be sub-let). The cost of doing this, together with the minimum current annual tax of some £22,000 (up to a maximum of just under £30,000) should encourage successful applicants to consider spending at least some time here.

I have one client who was fairly adamant when we assisted him with his Cat 2 application that he would "hardly visit the place". Fast forward a few years and he and his entire family have settled here permanently, bringing considerable economic benefit to the jurisdiction. But then Gibraltar is that kind of place, right? Moving forward, it is also possible to obtain a full British passport — but only after a considerable amount of time, generally ten years.

For me the main group of people who are attracted to alternative residency or citizenship are HNWI's that live in countries where the political or economic future is uncertain. It is entirely appropriate — and sound planning advice — to consider the possibilities of either emigrating immediately or perhaps securing an alternative residency or citizenship to hold in the event of any deterioration in circumstances

Many developed countries have implemented Immigrant Investor Programmes (IIP) that are designed specifically to attract such HNWI's

at home. After all, if they have money to invest, as HNWI's will, it makes sense for them to do so in countries that offer some kind of formal status in return.

Many developed countries have implemented Immigrant Investor Programmes (IIP) that are designed specifically to attract such HNWI's — either by offering residency that can lead to citizenship or by granting citizenship itself in return for investment. Sometimes described as the "new alternative investment", such programmes have different financing requirements, immigration procedures and benefits to investors.

Very careful consideration needs to be given to the jurisdiction itself, including ease of access or perhaps its standing across the world. After all you wouldn't want to take up citizenship in a country only to find you (or your children) were expected to perform military or other compulsory service. Equally it would be of little use if the passport you were given were not accepted by any of the countries that you wished to visit.

Other factors to take into account when applying for a second residency or passport under an IIP should include: the investment level required to gain residency; the length of time it will take for an applicant to become

eligible for citizenship; and the number of days, if any, which an applicant is required to reside physically in the jurisdiction.

Equally important to find out is whether: eligibility for citizenship is extended readily to an applicant's spouse or other dependants; dual citizenship is allowed (either by the applicant's proposed or existing country); your existing country applies an exit tax or other penalties. You should also consider whether there are any requirements in respect of qualifications, work experience or language, and the projected cost of living in the proposed country — including accommodation, transport, health, as well as tax rates and tax incidence.

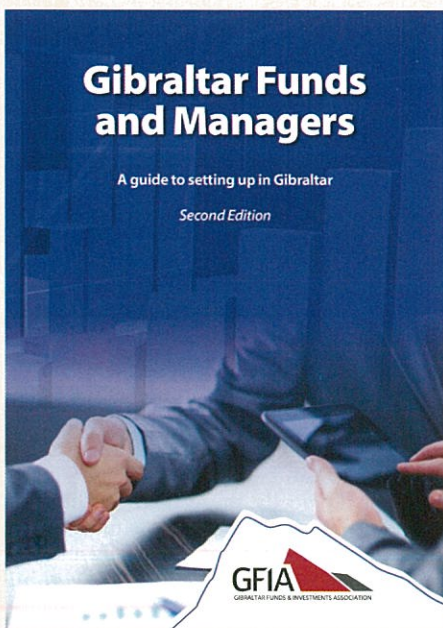
The concept of "Citizenship by Investment" was launched by the government of St Kitts & Nevis 30-years ago and has been followed by Canada, Dominica and almost a score of other countries since. Several European Union countries — Bulgaria, Hungary, Cyprus and Malta amongst them — have enacted specific investment programmes that can lead to the issue of the much-prized European Union passport. This allows for freedom of movement across the 28 countries that make up the EU. Several other EU states (including the UK and Portugal) have introduced specific residency rules. The economic benefits of attracting wealthy immigrants are obvious, although the political implications should always be a consideration.

Recently I represented Sovereign at the Global Citizen Forum in Toronto aimed at giving industry practitioners a chance to interact with politicians and others involved in this growing area. The government of Antigua & Barbuda used the event to promote their new programme and we had interesting discussions on the subject with newly installed Prime Minister Gaston Browne. He promised to develop a totally transparent system that included, for example, regular reporting of the numbers of citizenships approved — something not currently allowed by other countries.

The Forum made clear that, as always, professional advice should be sought at the outset, ideally from a firm whose own personnel or panel of specialist external partners can guide clients through the best available options. Residency or citizenship should be treated like an insurance policy — it should be acquired well in advance, before it is needed in an emergency.

So there it is. There are several options but of course as this is the finance column for the *Gibraltar Magazine* readers will expect me to concentrate on those available here. I look forward to the changes expected to our existing residency schemes. Hopefully it will lead to an influx of HNWI's and their dependants provided that they invest here and start spending money. That, of course, benefits us all. ■

GfIA Guide to Setting Up In Gibraltar



The Gibraltar Funds and Managers Guide, Second Edition, has been released by the Gibraltar Funds & Investments Association.

Since its first publication, the GFIA Guide has become the definitive source of information for those wanting to learn more about our growing funds and asset management sector.

The guide contains a forward by the Hon. Albert Isola Minister with Responsibility for Financial Services followed by an Introduction to Gibraltar, Overview of Gibraltar's funds Industry, and goes on to cover topics such as Setting Up a Fund in Gibraltar, Experienced Investors Funds, Taxation and Statistics. ■

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