

Immigration

QUISUMBING TORRES

Primer on Immigration to the Philippines



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Contents

I. Work / Employment Requirements.....	1
1. Multiple Entry Special Visa	1
2. Special Non-Immigrant or 47(a)(2) Visa	2
3. Pre-Arranged Employment or 9(g) Visa	2
4. Treaty Trader’s or Investor’s Visas	2
5. Subic Bay Freeport Work Visas	3
II. Special Resident Visas.....	3
1. Special Resident Retiree’s Visa (“SRRV”)	3
2. Special Investor’s Resident Visa (“SIRV”)	4
3. SIRV for Investors in Tourist-Related Projects and Tourist Establishments	5
4. Subic Bay Freeport Residency Visas	5
5. Subic Bay Freeport Residency Visas for Retirees.	5
III. Dual Citizenship.....	5

Quisumbing Torres Immigration Practice Group

The Immigration Practice Group of Quisumbing Torres is composed of several lawyers and paralegals who have had a wide and extensive experience in all immigration-related matters. The following are the services usually provided by the group:

- All visa-related procedures
 - Tourist or 9(a) visa extension
 - Visa conversion (i.e., from tourist or 9(a) to other visas [e.g., pre-arranged employment or 9[g] visa, treaty trader's/investor's or 9[d] visa, student's visa, immigrant's visa])
 - Visa extension/renewal
 - Exit/re-entry procedures
 - Visa downgrading
- Foreign employment-related procedures
 - Special Work Permit ("SWP")
 - Provisional Permit to Work ("PPW")
 - Alien Employment Permit ("AEP")
- Naturalization
- Dual citizenship
- Deportation proceedings

I. Work / Employment Requirements

Subject to other legal requirements, foreigners who come to the Philippines to work must obtain a work visa from the relevant government agency (i.e., Bureau of Immigration ["BI"] and Department of Justice ["DOJ"]), as well as an alien employment permit from the Department of Labor and Employment ("DOLE"). If the foreigner wants to work during the pendency of his visa application, he may file a PPW application with the BI. The PPW, together with the AEP, will allow the foreigner to work during the pendency of the visa application.

In cases of short-term employment (i.e., less than 6 months) for positions that are temporary in nature (i.e., consultancy), a foreigner will only be required to apply for an SWP with the BI.

Generally, the work visa and AEP applications are filed after the foreigner has arrived in the country and has been admitted on a tourist or 9(a) visa. Except for certain restricted nationals, a foreigner may enter the country without a pre-approved tourist or 9(a) visa and he will be provided either a 21-day or 7-day visa, depending on his nationality, provided that he has an outbound ticket with him. In such a case, the application that will be filed is for the conversion of the tourist or 9(a) visa into the appropriate work visa.

The following are the more common types of work visas:

1. Multiple Entry Special Visa

This visa is available to: (a) foreign personnel of offshore banking units of foreign banks duly licensed by the Central Bank of the Philippines to operate as such; and (b) foreign personnel of regional or area headquarters of multinational companies which are officially recognized by the Philippine Government.

The expatriate, his spouse, and unmarried minor children under 21 years of age, if accompanying or joining him after his admission into the country as a non-immigrant, may be issued multiple entry special visas valid for one-year, which may be extended from year to year upon legal and meritorious grounds.

2. Special Non-Immigrant or 47(a)(2) Visa

This visa is granted under Section 47(a)(2) of the Philippine Immigration Act that allows the President to issue such visas when public interest so warrants, subject to such conditions as he may prescribe. The President, acting through the appropriate government agencies, has exercised this authority by allowing the entry of foreign personnel employed in supervisory, technical or advisory positions in Export Processing Zone Enterprises, Board of Investments registered enterprises, and Special Government Projects (e.g. MRT, Skyway).

This visa is generally valid for an initial period of one year and is renewable from year to year.

3. Pre-Arranged Employment or 9(g) Visa

This visa is available to foreigners who will be occupying an executive, technical, managerial or highly confidential position in a Philippine company and who are proceeding to the Philippines to engage in any lawful occupation, whether for wages or salary or for other forms of compensation, where a bona fide employer-employee relationship exists.

The entire process of obtaining a pre-arranged employment visa takes about two (2) to three (3) months. Dependents of the pre-arranged employment or 9(g) visa holder are entitled to the same visa.

The pre-arranged employment visa is granted for a period co-terminous with the AEP, which in turn, is granted for a period discretionary to the DOLE, usually based on the duration of the election or appointment of the foreigner.

4. Treaty Trader's or Investor's Visas

A foreigner is entitled to enter the Philippines as a treaty trader or investor only if he or she is a national of the USA, Germany or Japan, countries with which the Philippines has concluded a reciprocal agreement for the admission of treaty investors or traders. The local petitioning company must be majority-owned by US, German or Japanese interests. The nationality of the foreigner and the majority of the shareholders of the employer company must be the same.

The foreigner must be employed in a supervisory or executive capacity.

When granted, the visa may be extended to the foreigner's spouse and unmarried children below 21 years of age. The visa is generally valid for a one-year period subject to extension upon application.

5. Subic Bay Freeport Work Visas

A foreign national who possesses executive or highly technical skills, which no Filipino citizen within the Subic Bay Freeport possesses, as certified by the DOLE, may apply for this visa with the Subic Bay Metropolitan Authority.

This visa is valid for, and renewable every, two (2) years.

II. Special Resident Visas

In addition to work visas, a foreigner may also apply for special resident visas. These visas also allow a foreigner to work in the Philippines, subject to other requirements or limitations imposed by law.

The following are the different types of special resident visas.

1. Special Resident Retiree's Visa ("SRRV")

The SRRV program is available to foreigners and former Filipinos at least 35 years of age (may be waived in exceptional cases), who deposit the minimum amount required by law with a bank accredited by the Philippine Leisure and Retirement Authority.

The holder of an SRRV may stay in the Philippines indefinitely or visit the country at any time. The holder may also invest in or establish a business in the Philippines.

The following, among others, are the benefits accorded to an SRRV holder:

- Right to reside permanently in the Philippines;
- Multiple entry privileges;
- Exemption from the exit clearance and re-entry requirements of the BI;
- Exemption from travel tax, provided the SRRV holder has not stayed in the Philippines for more than a year from date of last entry;
- Tax-free importation of household goods/personal effects worth US\$7,000.00;

- Exemption from the special study permit;
- Privilege to work in the Philippines upon issuance of the AEP;
- Right to own a condominium unit or townhouse with Condominium Certificate of Title;
- Right to lease a parcel of land for 50 years renewable once for another 25 years; and
- Guaranteed repatriation of the dollar time deposit and/or investment.

The SRRV takes about 2 to 3 weeks to process upon submission of all the requirements.

The SRRV holder will not necessarily lose his special resident status upon the loss of the required deposit. He may continue to stay in the country provided that he is financially capable of supporting himself.

2. Special Investor's Resident Visa ("SIRV")

Any foreigner, at least 21 years of age, willing and able to invest at least US\$75,000 in the Philippines, may apply for this visa. The applicant's spouse and unmarried children who are less than 21 years of age, accompanying the applicant, may be included in the visa application. Unlike the SRRV, there is no limit to the number of unmarried children that can be included in the application.

The following are the benefits of obtaining an SIRV:

- Investment in any business activity (subject to limitation on foreign equity requirements under law for partially nationalized activities) except certain wholly nationalized areas, e.g., retail trade, practice of the licensed professions, rural banking and mass media;
- Investment in a condominium unit provided that the extent of foreign ownership in the condominium building or project does not exceed the level prescribed by law (bank or time deposits are not considered as investments);
- Indefinite stay with multiple entries, together with the spouse and unmarried children;
- Exemption from payment of alien immigration and registration fees; and
- Exemption from securing alien certificates of registration.

An SIRV holder is granted virtual permanent residence status as long as he maintains an investment of at least US\$75,000 in the Philippines.

3. SIRV for Investors in Tourist-Related Projects and Tourist Establishments

A foreigner who invests the amount of at least US\$50,000 in a qualified tourist-related project or tourism establishment, as determined by a governmental committee, shall be entitled to an SIRV.

4. Subic Bay Freeport Residency Visas

Any investor who has made, and continues to maintain, an investment of not less than US\$250,000 within the Subic Bay Freeport may apply for this visa. Such visa shall be valid for as long as the visa holder maintains the investment.

5. Subic Bay Freeport Residency Visas for Retirees

This visa requires the applicant to be over 60 years old, of good moral character, with no previous conviction of a crime involving moral turpitude, no longer employed or not self-employed, and receiving a pension or passive income which is payable in the Subic Bay Freeport in an amount exceeding US\$50,000 per year.

III. Dual Citizenship

Republic Act No. 9225, otherwise known as “The Dual Citizenship Act of 2003”, allows all former natural-born citizens of the Philippines, who have lost their Philippine citizenship by reason of their naturalization as citizens of a foreign country, to re-acquire their Philippine citizenship, as well as all the rights and privileges incidental to such citizenship.

Those who reacquire or retain Philippine citizenship under this Act shall enjoy the following rights:

- *Right of suffrage.* - This right is subject to the requirements under Art. V, Sec. 1 of the 1987 Constitution and Republic Act No. 9189, otherwise known as “The Overseas Absentee Voting Act of 2003”.

- *Election/appointment to public office.* - Must meet the qualifications for holding such public office as required by the Constitution and existing laws, and they must renounce their oath of allegiance to the foreign country where they took their oath.
- *Practice of profession.* - This right is subject to the obtainment of the necessary license or permit to engage in the practice of such profession.
- *Ownership of realty in the Philippines.* - This right is subject to prevailing laws on the maximum size of real property that may be acquired by Filipinos.
- *Education/study in Philippine educational institutions.*
- *Engaging in business activities reserved/restricted to Philippine citizens.*

The procedure for the approval of petitions for reacquisition or retention of Philippine citizenship by former natural-born Filipino citizens already in the Philippines is as follows:

1. Filing of notarized application with the BI, and payment of filing fee;
2. Review of supporting documents to see whether they are complete;
3. Evaluation of application and supporting documents;
4. Issuance of notice of approval by the evaluating officer;
5. Fingerprinting at the Alien Registration Division; and
6. Issuance of the I.D. card signed by the BI Commissioner.

The entire process takes about 4-6 weeks to complete, provided all the requirements are complied with.

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