



## Options for Cayman Residency

### WHY CAYMAN?

Only one hour's flight from the United States, the Cayman Islands are an English-speaking British Overseas Territory in the Northwest Caribbean, located at the geographic centre of the Americas. They have long distinguished themselves from many other territories in the region by having a vibrant and increasingly sophisticated economy and a diverse and cosmopolitan population. More than 120 nationalities co-exist and work together in this progressive island group of approximately 75,000 persons.

The Cayman Islands have no income, property, estate or corporate taxes. The Government generates its revenues through an efficient mechanism of import duties and license fees. Residents are taxed based on their consumption, rather than their earnings.

Unlike some other islands in the region there are no restrictions on the foreign ownership of real estate. The Cayman Islands are increasingly being recognised as an ideal tax-neutral hub from which to conduct international business. Further, citizenship (including full British citizenship) can be acquired on the basis of residence in the Cayman Islands.

The Government of the Islands is particularly receptive to inward investment and this potential nascent "Singapore of the Americas" is poised for continuing growth.

The infrastructure of the Islands is already advanced and supports well established and leading financial services and tourism industries. Other sophisticated industries are establishing and growing. The highest quality of education, healthcare and communications is in place.

The Cayman Islands also boast a high standard of living and a wonderful quality of life. They are increasingly seen as a perfect home for discerning families, retirees and business persons.

### OPTIONS FOR RESIDENCY

The type of residency which is best suited to a particular individual's needs will in part be dependent on whether or not they are or seek to be able to advance towards any level of citizenship and, for example, whether (and if so, the extent to which) an applicant seeks to engage in commercial activity.

Each option has provision for spouses and dependants, and arrangements can also be made for household staff etc. to reside in appropriate circumstances.

All foreign nationals residing in the Cayman Islands are generally required to be able to demonstrate an ability to adequately maintain themselves and their dependants and have in place adequate health insurance. Ability to demonstrate good character, suitable residential accommodation and (if in employment for nine months and of pensionable age) participation in a Government-approved pension scheme is also required.

Children of school age are generally required to be enrolled in private schools.

In some cases United States Dollar (US\$) amounts referred to below are given in general terms only. The actual exchange rate applied is US\$1.00 = C\$0.82. Some requirements and fees are reduced for persons seeking residence in either Little Cayman or Cayman Brac.

In general terms, the options available for any person who is not already resident in Cayman, but is seeking to become resident, are as described in this publication.

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## 1. Become employed by an existing employer in the Cayman Islands on a work permit, or enter into government service

This is the simplest means of becoming a resident of the Cayman Islands. More than 25,000 foreign nationals presently have residency here following this route. Such persons are permitted (where appropriate and subject to having adequate funds) to have dependants (spouse, children etc.) reside with them.

Taking advantage of this opportunity will require the filling of a vacancy in the job market which cannot be filled by a Caymanian or person already legally resident in the Cayman Islands. The availability of such positions can generally be determined through job postings in newspapers and online postings. A number of international recruiters also operate within and in relation to the Cayman Islands. If a suitably qualified Caymanian becomes available for a position filled by a Work Permit holder, that permit is unlikely to be renewed on expiry.

Other than in regard to persons employed in respect of certain senior positions in (for example) the Mutual Fund Administration and Reinsurance industries, there are at present term limits on persons employed in the private sector. Generally set at nine years, term limits can be overcome through successful application for Permanent Residence designation. Advice should be sought as to the specific criteria required to remain in the Cayman Islands for more than nine years. Indeed, if a permanent move is anticipated, the criteria for seeking Permanent Residence (which can only be applied for on the basis of residence after eight years but less than nine years in the Cayman Islands) should be understood.

Term limits, or indeed any requirement to have a work permit, do not currently apply at all to persons engaged directly in Cayman Islands Government service.

Work permits can be obtained in as little as 48 hours from submission of a completed application. In very exceptional circumstances, a work permit can even be obtained on a same day basis. A wide range of fees are payable in return for work permits and are addressed further below. These fees can and must only be paid by employers. It is generally an offence for an employee to pay for their own work permit.

## 2. Establish a Business and seek permission for that Business to employ you (and potentially others) pursuant to a work permit

It is perfectly permissible and in many respects even encouraged for persons to create a vacancy for their own employment by establishing a business in the Cayman Islands. Where the proposed business competes in the domestic economy of the Cayman Islands (for example a restaurant or water sports operation) it is likely that Caymanian shareholders and directors will need to be involved (subject to them making any required appropriate investment) under a legislative framework designed and intended to prevent the economic resources of the Islands being owned and controlled by foreign nationals. However, where the proposed business is of particular sophistication (such as a bank) or only engages with customers outside of the Cayman Islands (such as an on-line retailer or international marketing specialist) then there are no restrictions whatsoever as to the Cayman Islands Immigration status of those in (beneficial) ownership and/or control.

The usual path to follow in respect of this option is to first incorporate a Cayman Islands company. The type of company will often depend on the nature of the business to be transacted. Further details can be provided as appropriate.

Incorporation can be achieved within 48 hours of receipt of full instructions. The total cost of such incorporation, including the first year's Corporate Maintenance and Registered Office fees, is approx. US\$4,000. Thereafter, an application can be made to the appropriate authority and/or to the Trade & Business Licensing Board for the entity to be licensed. Where there is no competition in the domestic economy and the nature of the business does not require specific regulation (for example, by the Cayman Islands Monetary Authority or the Medical Practitioner's Board) then required permissions will be readily forthcoming within two to three weeks of completed application.

The cost of a Trade & Business license depends greatly on the precise nature of the business envisaged and (for some industries) the number of persons to be employed. Most licenses, however, cost in the order of US\$1,000 per annum. By way of example, the Trade & Business license fee for an agent or broker is CI\$750 (US\$914.63) for each professional member of the business, whereas for a manufacturer the total fee is CI\$400 (US\$487.80). For an accountant, the fee is CI\$2,000 (US\$2,439.02) for each professional member of the business. (Accountancy firms of more than six accountants or other professionals must also pay additional fees).

Any business not specifically specified in the schedule to the Trade and Business Licensing Law in which a service is offered for reward attracts an annual license fee of CI\$300 (US\$365.85).

A Trade & Business license will generally require the rental of an office or other suitable commercial premises. In appropriate circumstances (and in particular where there will be no employees other than the principal, and no customers attending) permission can be sought and obtained to operate such businesses from a residence (whether rented or owned).



Even once a Trade & Business license has been obtained, formal residency cannot actually commence until the individual to be employed has been granted a work permit. As the work permit process can take some weeks to complete, an expedited option is available on paying a relatively notional fee and seeking an express Temporary Work Permit. Such work permits are generally available within 48 hours of application.

It follows that the entire process can be accomplished from concept to establishing actual residence in as little as a month in appropriate circumstances. The cost of an initial three-month Temporary Work Permit is between CI\$100 and CI\$1,500 (US\$121.95 and US\$1,829.26) depending on the position being sought and industry. Such a permit can be used in some instances to transition into a full work permit which can be granted for anything between one and in some cases up to five years, and which has an annual cost varying greatly depending on position and industry. Discounts on work permit fees are available for persons seeking to reside in either Little Cayman or Cayman Brac.

These permissions can lead to Permanent Residence after eight years in the Islands and, thereafter, further applications can be made towards citizenship and, ultimately, the Right to be Caymanian.

No investment in Cayman Islands real estate is required in order to obtain immediate residency through this route, although investment in property is generally encouraged and provides "points" towards achieving Permanent Residence. This is, therefore, an ideal solution for persons who are seeking to reside in the Cayman Islands but who do not yet wish to make the commitment to (or otherwise are not yet in a position to) acquire real estate while they either gain familiarity or otherwise determine the area in which they will ultimately look to settle.

It is also an ideal potential option for persons who ultimately seek Permanent Residence for Persons of Independent Means (with the Right to Work) but are yet to cross the investment in developed real estate threshold (because, for example, their future property remains under construction).

### 3. Establish a Special Economic Zone entity and obtain a SEZ certificate permitting employment in that entity

An alternative to the option of obtaining a Trade & Business license (and/or alternative) and work permit is the option of establishing a business within the Cayman Islands Special Economic Zone, Cayman Enterprise City ("CEC"). Its operations are based on the model of successful free zones in Dubai.

CEC is a private developer which, in an effort to help attract particular types of business to the Cayman Islands, has obtained concessions from the Cayman Islands Government which permit it to offer particular benefits to entities established within their development. Some of these benefits may not be available (or as readily available) in relation to alternative options, and include a waiver of import duties in relation to equipment required by the business.

Special Economic Zone Enterprises, like any other Exempted Company, are not allowed to engage in business in the Islands save in furtherance of their activities overseas. They cannot be



operated from a home or from any commercial property which has not yet been designated as part of the Special Economic Zone.

Provided an Enterprise fits within one of the specific proposed business parks (which at present are virtual in nature and can be located in any properly designated commercial office space in the Cayman Islands) it can be accommodated by CEC. The parks at present are: Cayman Internet and Technology Park; the Cayman Media Park; Cayman Commodities & Derivatives Park; the Cayman Biotechnology Park; and the Cayman International Academic Park.

Although establishing a business in CEC still requires the incorporation of a company, and in fact a Trade & Business license and work permit are in effect still required, the cost and most of the administrative burden of both seeking and renewing the Trade & Business license and work permit are wrapped up into what is effectively "office rent" paid to CEC.

Depending on the nature and extent of the proposed business it can cost less to operate as a Special Economic Zone entity than the alternative option of operating with a non-Special Economic Zone company in the more mainstream economy.

Much will depend on the nature of the business and the scope and origin of employees (actual or anticipated).

The least expensive form of Special Economic Zone presence is achievable through what is known as a FlexiPresence. This will provide a workstation (available when needed) for up to 90 days during a calendar year, together with shared business centre facilities. The pricing for this option can be as little as US\$15,000 per annum. A DedicatedPresence for use 365 days a year is available for as little as US\$23,250 per annum; whilst a small office for a single person can be obtained for as little as US\$35,000 per annum. More substantial options are available. Fees are paid by CEC on behalf of any tenant to the Cayman Islands Government in respect of work permit fees and business license fees.

Work permits in CEC are available for an initial period of up to five years. The holders of such permits remain the subject of the term limit provisions but can apply for Permanent Residence in effectively the same way as any work permit holder.





## 4. Residency Certificate for Persons of Independent Means

This form of residency is usually best suited to retirees and has an initial duration of 25 years.

It is available to any person who invests a minimum of CI\$1,000,000 (US\$1,219,512.20) in the Cayman Islands of which at least CI\$500,000 (US\$609,756.09) must be in developed Grand Cayman real estate provided that they seek to establish residence in Grand Cayman. Should residence be sought in the neighbouring islands of Little Cayman and Cayman Brae a minimum of CI\$500,000 must be invested, of which at least CI\$250,000 must be in developed real estate in Cayman Brae or Little Cayman. The required investment thresholds must be free from mortgage financing.

In addition to the investment in the developed real estate, in order to qualify for this permission applicants must be able to demonstrate an annual income of no less than CI\$120,000 (US\$146,341.46) without the need to engage in gainful occupation in the Cayman Islands. Alternatively they must have deposited (and maintain) at least CI\$400,000 (US\$487,804.88) in a locally licenced financial institution. They must also generally have a clean criminal record (please note that for the purposes of Cayman Islands Immigration requirements there is no such thing as a "spent" or "expired" conviction), be in good health and possess adequate health insurance. The authorities will need to be satisfied that these funds and other resources are sufficient to adequately maintain the applicant and any dependants. The authorities must also be satisfied as to the character and health of any dependants.

The holder of a Residency Certificate for Persons of Independent Means is entitled to reside in the Cayman Islands for 25 years. The Certificate does not provide any right to work and must be renewed upon expiry. It is not intended to be possible for the holder of such a certificate to advance towards citizenship while such a certificate is held.

An application fee (for grant or renewal) of CI\$500 (US\$609.75) is payable on application.

A grant fee of CI\$20,000 (US\$24,390.24) is due on issuance, with a further CI\$1,000.00 (US\$1,219.51) payable in respect of each approved dependant.

The dependent fee of CI\$1,000.00 per dependent is payable annually. Otherwise, no fees are due thereafter for the duration of the permission.

## 5. Certificate of Direct Investment

This option is amongst those best suited to business investors, but is not generally recommended as better alternatives usually exist.

A Certificate of Direct Investment (and resulting right to reside) is available to any person who has made (or proposes to make) an investment equal to or greater than CI\$1,000,000 (US\$1,219,512.19) in any licensed employment generating business or businesses in the Islands. The business or businesses can be already existing or a new venture, and the applicant must or must propose to exercise substantial management control. Applicants must also be able to demonstrate a substantial business track record or entrepreneurial background including specific professional, technical and other knowledge relevant and necessary to carry on the pertinent business or businesses. Further, the applicant must be able to prove the availability of funds to the value of the proposed investment amount, or otherwise to have already invested the minimum prescribed sum of money in a licensed employment generating business in the Islands.

Separate applications need to be made for licensing of the business if licenses are not already in place.

Provided the Director of Workforce Opportunities and Residency Cayman (WORC) is satisfied that the applicant and any spouse have clean criminal records, and that the applicant (and any spouse or dependants) are in good health and possess adequate health insurance, then a Certificate of Direct Investment valid for 25 years (is renewable on application and at the discretion of the Director of WORC) will be granted subject only to the payment of prescribed fees.

Holders of such a Certificate are entitled to reside in the Cayman Islands and "work in the business or businesses in which they have invested for the purpose of obtaining the Certificate" in an occupation or occupations approved by the Director of WORC.

An application fee of CI\$1,000 (US\$1,219.51) is payable on application.

A grant fee of CI\$20,000 (US\$24,390.24) is due on issuance, with a further CI\$1,000 (US\$1,219.51) payable in respect of each approved dependant. Thereafter, the dependent fee for each approved dependent is payable annually.

In addition, holders of a Certificate of Direct Investment are required to pay an annual fee equivalent to that payable by a work permit holder in the same occupation.

## 6. Residency Certificate (Substantial Business Presence)

A person who is or proposes to be legally and ordinarily resident in the Cayman Islands for a minimum period of 90 days in each calendar year, and who owns (or proposes to own) either directly or indirectly a minimum of 10% of the shares in an approved category of business in the Islands, or who is employed in a Senior Management Capacity in such a business can seek a Residency Certificate (Substantial Business Presence). The approved category of business must be one through which the applicant has sought to gain their permission.



The applicant must also demonstrate to the satisfaction of the Director of WORC that they are or will be employed in a Senior Management Capacity in that approved category of business.

Amongst approved categories of business are fund administration, brokerage services, family office, and any entity incorporated as an Exempted Company. A Senior Management Capacity is deemed to be any capacity which would attract an annual work permit fee of CI\$20,925 (US\$25,518.29) or above. A substantial business presence is generally one where the business in question employs or will employ a minimum of four full-time employees who will be legally and ordinarily resident in the Cayman Islands for a minimum of nine months in any calendar year.

Provided the Director of WORC is satisfied that the applicant and any spouse have clean criminal records, and that they and any dependants are in good health and possess adequate health insurance, and that the various other requirements are fulfilled, then the Officer will issue a 25 year Residency Certificate (Substantial Business Presence).

An application fee of CI\$1,000 (US\$1,219.51) is payable on application.

A grant fee of CI\$5,000 (US\$6,097.56) is due on issuance, with a further CI\$1,000 (US\$1,219.51) payable in respect of each approved dependant. The dependant fee of CI\$1,000 per dependant is payable annually.

In addition, holders of a Residency Certificate (Substantial Business Presence) are required to pay an annual fee equivalent to that payable by a work permit holder in the same occupation.

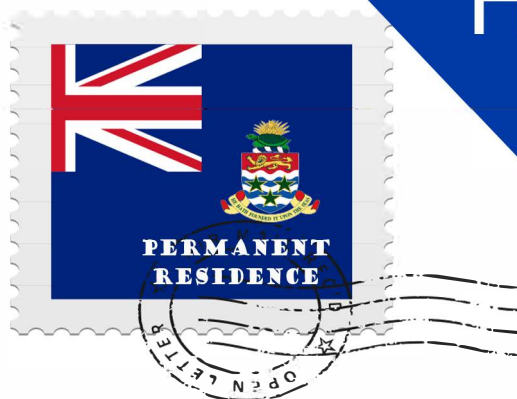
## 7. Certificate of Permanent Residence for Persons of Independent Means

This is the ultimate permission which can be sought and obtained pursuant to clearly prescribed criteria. It provides an opportunity to acquire Permanent Residence with the Right to Work based on investment, rather than having to wait for eight years before being eligible to apply and even then, being subject to a wide-ranging points system.

Unlike Residency for Persons of Independent Means, this option has no expiry and qualifies a holder (provided other criteria as to actual physical presence are maintained) to become eligible to apply for naturalisation as a British Overseas Territories Citizen once they have been legally and ordinarily resident in the Cayman Islands for five years. Once a person has been naturalized, they are entitled to a British Overseas Territories (Cayman Islands) passport and can, upon successful application, become registered as a full British Citizen and thereby obtain a British passport with all the rights and privileges. There is no obligation to surrender any existing citizenship. Once a person has been a British Overseas Territories Citizen by virtue of the connection with the Cayman Islands for five years, they are eligible to apply to become Caymanian.

A Person of Independent Means who seeks a Certificate of Permanent Residence in this manner is required to first invest a minimum of CI\$2,000,000 (US\$2,439,024.39) in developed real estate in the Cayman Islands. That threshold amount must be met free from mortgage financing. They should also have a clean criminal record, possess adequate health insurance, be in good health and demonstrate financial resources that are sufficient to adequately maintain the applicant and any dependants.

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Once granted, the Right to Work can be sought and obtained through application to the Caymanian Status and Permanent Residency Board or the Director of WORC to vary the Certificate to add a prescribed occupation or occupations. An application fee of CI\$500 (US\$609.75) is payable on application.

A grant fee of CI\$100,000 (US\$121,951.21) is due on issuance, with a further CI\$1,000 (US\$1,219.51) payable in respect of each approved dependant.

In addition, holders of Permanent Residence with the Right to Work are required to pay an annual fee equivalent to that payable by a work permit holder in the same occupation.

Any obligation to pay ongoing annual fees is extinguished once the holder becomes a Caymanian.

## 8. Obtain the Right to be Caymanian from the Cabinet

In truly exceptional circumstances, the Cayman Islands Immigration Law provides that the Cabinet may grant the Right to be Caymanian to up to four persons in any calendar year. This permission has not (since it became available in its modern formulation) been granted to any person who was not already legally and ordinarily resident in the Cayman Islands. Indeed, in the last decade, there have been only nine recipients, all of whom had previously lived in the Cayman Islands and had made substantial contributions.

Prior residence is, however, not a requirement to receive a grant under this category. It is difficult to conceive of the basis on which the government of the Cayman Islands would contemplate such a grant unless an extremely substantial benefit to the Cayman Islands would arise as a consequence. Because that possibility exists, however remote, the option is included as one of the means by which it is possible for a person with no connection to the Islands to become legally resident.

Possessing the Right to be Caymanian in and of itself does not entitle a person to a British Overseas Territories Citizen (Cayman Islands) passport, or indeed to any other citizenship. British Overseas Territories Citizenship is only available to persons who are born, naturalized or registered as such. In the circumstances of a grant of the Right to be Caymanian to a non-Permanent Resident, the holder would have to be resident in the Cayman Islands for five years before being eligible to apply for naturalisation.



## What if I want to have a vacation home and/or investment property only?

For foreign investors looking to simply benefit from the ability to enjoy a vacation home for the use of themselves, their family and friends, without seeking residence in the Islands, no express permissions are usually required. It should be noted, however, that persons who wish to spend more than approximately 180 days in the Cayman Islands in any year may risk a determination that rather than visiting as a tourist, they are treating the Islands as their home. In such cases, applications for some advanced form of Immigration permission may become appropriate, or even be required.

There are no specific permissions required should a foreign national (whether resident or not) aim to act as a landlord and rent up to two units of property belonging to them to third parties. Should any persons seek to act as a landlord in relation to more than two properties appropriate mechanisms can be readily implemented to facilitate such activity including by contracting with agents to operate rentals on their behalf.

In general terms, the two options available for any person who is not already resident in Cayman, but is seeking to become legally resident in the Islands on the basis of a property purchase, are Residency for Persons of Independent Means and a Certificate of Permanent Residence for Persons of Independent Means. These are described more fully above.

## SERVICES PROVIDED

As a full service law firm, with a wealth of experience in Immigration work and also in general advocacy, including international law and human rights, we are exceptionally well placed to provide all the legal and administrative assistance needed throughout any residency application process.

We can generally have any option in place (conservatively) within two months of complete instructions and barring any unforeseen problems. Legal fees can range from anything from US\$2,500 to US\$15,000 depending on the option most amenable to a particular applicant, subject always to the application following a normal and established course and not running into any unforeseen difficulty. We also offer full property and (through a related entity) corporate services to purchasers, developers and prospective investors.

We can manage your application from start to finish, and in particular provide the following services:

- Advising as to the best options given a clients' particular circumstances;
- Providing and assisting in the completion of all application forms and paperwork;
- Assisting in the collation and submission of evidence;
- Preparing detailed cover letters;
- Liaising with the Immigration authorities as the application progresses;
- Ancillary matters as they may arise, including assistance with real estate acquisition, company incorporation, business licensing, acquiring interests in local businesses; and
- General relocation assistance.

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