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ALERT
SURVIVE AND THRIVE IN THE AGE OF TURMOIL

Got a new business idea? Launch it in Ireland and you could gain European residency

If you're a non-European Economic Area (EEA) citizen looking for legal residency options in Europe, the choices are numerous and varied. In recent months we've covered options in Portugal, Andorra, Spain, Lithuania, and Estonia, among others.

Each has its pros and cons and possible strategic fit with different people, depending on your unique individual circumstances.

You can add Ireland to the list.

We covered options for Irish residency by investment in real estate a couple of years ago, but that program is not nearly as attractive any more, as there are many, lower-cost alternatives in the EU now.

What is of great interest in Ireland is a relatively new, little-known residency option called the "Start-up Entrepreneur Scheme."

In short, this initiative provides residency in Ireland for non-EEA nationals and their immediate families (spouse and dependents), if they can demonstrate to the Irish authorities that they have an innovative idea for a "High Potential Start-Up (HPSU)" and access to funding of at least €50,000 for the first principal of the business, and €30,000 for each additional principal.

The funds can come from any number of sources, for example, your own savings, a business loan, an angel or venture capital grant, or capital from third party shareholders.

What's more, there are no initial job creation targets or requirements. The Irish government recognizes that such businesses can take considerable time to really get off the ground.

The Irish government's explicit guidelines for a High Potential start up are that it MUST:

1. Introduce a new or innovative product or service to international markets. In other words, it must have export revenue potential. An online business reaching a global audience would clearly fit this category.

2. Have the potential to create at least 10 jobs in Ireland and generate at least €1 million in sales within three to four years of starting up.

3. Be led by an experienced management team.

4. Be headquartered and controlled in Ireland.

5. In the case of an existing HPSU being relocated to Ireland, be no more than six years old.

Note that businesses such as retailing, catering, or personal services will NOT qualify. Other channels, with much higher minimum investment criteria (€500,000), are open for these sorts of proposals.

If you think you have an idea, or an existing business that might qualify as a HPSU, read on...

Why Ireland?

The Irish government is among the more pro-business governments in the world. High-tech companies, led by the likes of Google, Apple, and numerous biotech companies, have long been attracted to the emerald isle.

Dublin in particular, is considered one of Europe's startup hubs, with cheaper rents than London and easier access to English-speaking talent than Berlin, two other hot destinations. Startups abound in Ireland, as does infrastructure to support them, such as Startup Ireland (http://startupireland.ie/).

An increasingly entrepreneurial culture, a skilled, English-speaking workforce, and a very competitive corporate tax environment are among Ireland's premier draw cards. The corporate tax rate is just 12.5%. In London, it starts at 20%. In Germany it's 29.6%. And that's before you add state taxes and social security.

The Irish government also recently increased businesses' flexible R&D tax credit to 25%. My contacts tell me that enterprises are given wide leeway in terms of what qualifies as "Research, Development & Innovation." Subject to checking with your accountants and lawyers, it appears you can get pretty creative with your tax deductions.

Additionally, Ireland offers an Intellectual Property (IP) regime that allows a tax write-off for broadly defined IP acquisitions. So, you can potentially get significant non-cash deductions against your company's income where you take IP assets onto your balance sheet.

There's also:

- A holding company regime that includes exemptions from capital gains taxes on disposals of shares in subsidiaries. So, for example, if you hold the intellectual property rights that make your startup so valuable in a separate company and eventually make a large profit by cashing out and selling that company to an acquirer, your holding company won't owe taxes on the profit.

- There's generally also no tax on dividends paid by one Irish company to another.

Ireland performs well against many of its peers in terms of its attractiveness for investment. For example, The Economist Intelligence Unit's 2014 Business Environment Ranking lists Ireland as the 15th most investor-friendly nation on Earth. (Singapore, unsurprisingly, ranked as #1. Switzerland came in 2nd, Finland 9th, Germany 12th, Chile 13th.)

How to apply

You will almost certainly need professional help in submitting your initial application for the Start Up Entrepreneur Visa.

There are requirements to submit a business plan, and you will need to convincingly demonstrate to the Irish Naturalization & Immigration Service that you, and your business meet the requirements.

The documents you'll need to apply, at a minimum are (either originals or photocopies of originals):

- Passport of applicant and spouse/dependents
- Two passport-size photos for each
- Evidence of legal marriage or de facto partnership (if applicable)
- Birth certificates of children (if applicable)
- Evidence of funds available for Start-up
- Evidence of source of funds for Start-up
- Business plan
- Police report for applicant and spouse/partner

Take a look at the guidelines and the application form here:

- **Startup Entrepreneur guidelines**
- **Startup Entrepreneur application**

For help, I suggest you contact **Alan O'Driscoll**, partner at:

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Flynn O'Driscoll are specialists in commercial law and handling legal business matters, including immigration, for Irish businesses.

They're a relatively small firm with 5 partners, and 8 solicitors. But that's a good thing. You won't get lost in the bureaucracy of some giant law firm.

They are very familiar with the Start-up Entrepreneur Scheme and they have a successful record in this area on behalf of their clients for this visa.

Flynn O'Driscoll's fees will vary depending on the complexity of your application, and how much of it you are able to complete yourself. But, as a general guide, Alan O'Driscoll says to expect costs of at least €1,500 to €2,000 for an average case.

Interestingly, Alan was able to provide me with more up-to-date information than you'll find even on the Irish government's websites.

For example, the minimum funding threshold of €50,000 for the first principal of the HSUP, and €30,000 for each additional principal, was recently reduced from €75,000 for all principals of the HSUP. But, you'll still see the old, higher figures in most places on the web, including in the not yet updated guidelines and application form itself.

In total, the Irish government has only received 35 applications under the Start-up Entrepreneur Scheme since it began in 2012. Twenty of these applications were approved. Ten were rejected. Two are still pending. And three were withdrawn.

The government is hoping the reduction in the monetary threshold will encourage more applications from promising entrepreneurs bootstrapping their start-ups.

Setting up an Irish business

It's a lot less Byzantine to set up a business in Ireland than in, say, the Philippines.

To give you an idea, The World Bank's 2014 *Ease of Doing Business* report ranked Ireland 15th out of 189 economies. The process takes less than 10 days and the administrative fees are only €80-130.

To establish an enterprise in Ireland, one must:

1. Swear before a Commissioner of Oaths (1 day)
2. File the necessary documents with the Companies Registration Office – memorandum & articles of association (a week)
3. Get a company seal (1 day)
4. Register for corporate taxes, social insurance and VAT with the Revenue of Commissioners (1 day)

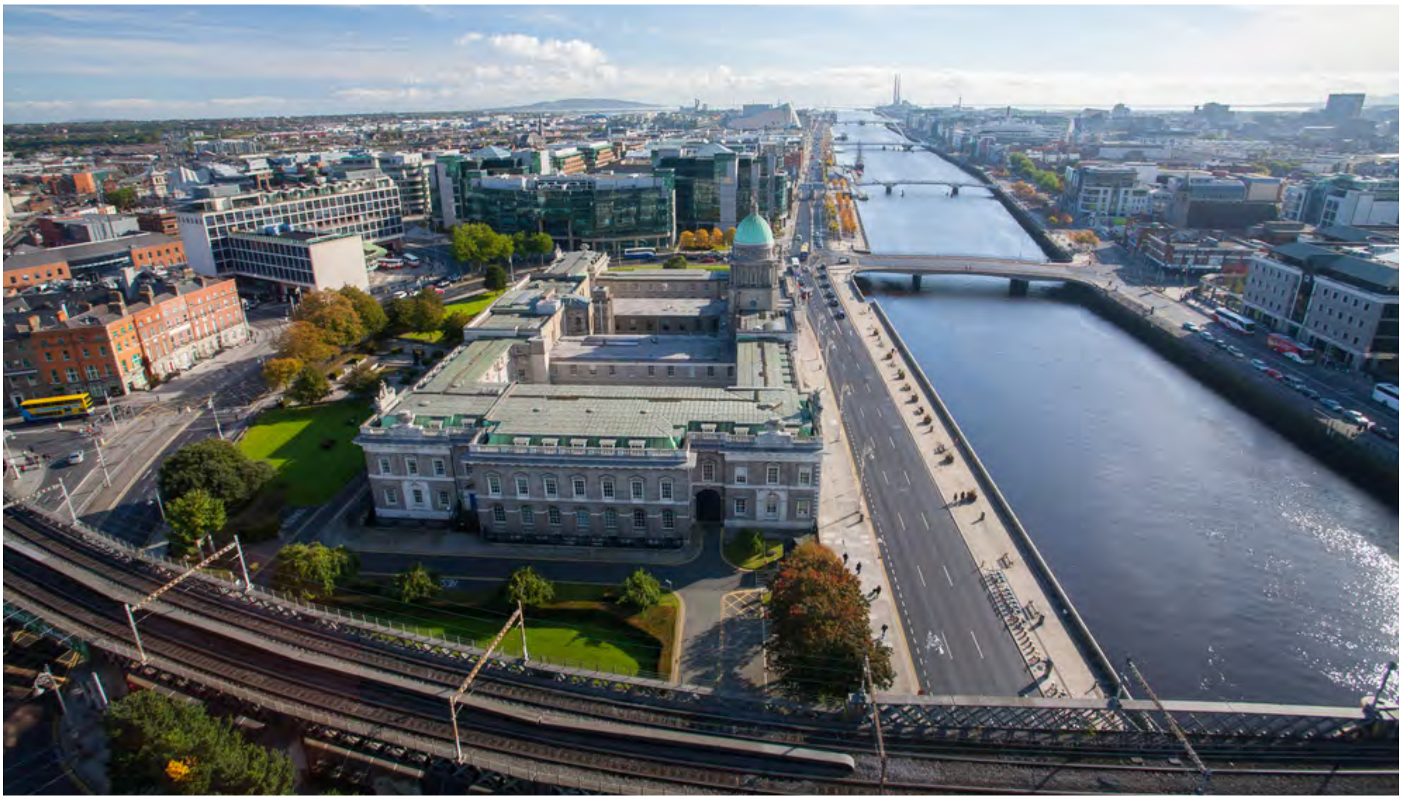
It's very straightforward to establish a company in Ireland but you'll also need an agreement of two EEA resident persons to be company directors, as well as a registered office in Ireland. Flynn O'Driscoll can help with the paperwork and recommend persons to act as additional company directors if required. The cost of appointing a non-executive director can vary depending on their experience, duties, and role from €3,000 to €10,000 per year.

Applying for the Startup Entrepreneur program

Aside from the completed application form and business plan, you must provide proof of your funding, plus an affirmation of a clean background (no criminal convictions) and proof of health insurance. [Note that we will be covering the topic of health insurance for expats comprehensively in an upcoming SMC Alert]. You must also pay a non-refundable €350 application fee.

The Evaluation Committee may come back to you or your attorney for supporting documents, or with questions. The standard application approval time is 4-6 weeks, though this may increase in case of a greater number of applications.

Your funding evidence doesn't have to be cash. You can cobble together the money from a combination of sources, including a business loan, angel investor or VC funding, or even a grant from an Irish State Agency. You'll need letters from all funders (or from your corporate and/or personal bank) attesting to the legitimacy and availability of the funding.



Once approved, you'll receive your (and your family's) visa/s, which are valid for an initial residency period of two years, after:

1. The required funding has been transferred to an Irish bank.
2. You show private medical insurance — you won't be allowed to use the Irish government system.
3. You've (all) submitted an affidavit attesting to your good character and lack of criminal convictions.

The renewal process is a bit more streamlined. Again, it's worth stressing that you don't need to be pulling in a predetermined amount of profit or employing x number of Irish citizens after the initial two-year residency period. And, no further investment criteria apply. (This is an important point of differentiation with Estonia, for example, which we covered last month.)

But, the startup must still be in place, and the Evaluation Committee will assess whether it is still a viable investment. You'll also need to maintain your private medical insurance.

If approved, your residency visa will be renewed for a further three years. Then, after going through the process again, after the next three years are up, in 5-year installments. There does not seem to be a limit to the number of 5-year extensions possible.

Note that because the program was only launched in 2012, the earliest companies approved are just now applying for their respective three-year renewals; so far, no hiccups to report.

Ireland is hungry for entrepreneurs; it's a beautiful country and full of potential. And of course they speak English.

If you're interested in a relatively low-cost access to the EU, with a familiar language and culture, this, I believe, is the program to go for.

What about citizenship?

We'll be covering Irish citizenship in detail in an upcoming Alert.

But, if you didn't luck out in the ancestry department, and don't qualify for an Irish passport, or other EU passport, based on your bloodlines or place of birth, you can still gain Irish citizenship via residency and naturalization.

Before getting into detail, it's important to note that gaining residency via an investor program **does *not* afford you any shortcuts to Irish citizenship, the way it could in some other countries**. The law is explicit about this.

But the various investment residency options, including the Start-up Entrepreneur Visa, do **allow you to live in Ireland for the requisite number of years needed to qualify for citizenship by naturalization**. (The only way to gain residency and meet the minimum residency requirement otherwise would be to marry an Irish national, or enter on a different employment visa.)

Should you decide to pursue Irish citizenship, it behooves you to follow through with that decision from the get-go, as you must have:

1) One year of continuous residence in Ireland immediately before the date of your naturalization application, and,

2) During the *eight years* preceding that period, a *total residence in Ireland amounting to four years.*

So you actually have to be physical present in Ireland for at least five years within a nine-year period before you can apply for naturalization.

The road to citizenship is a long one, which is why if a passport is your aim, it's vital to get clear on the requirements from the very beginning of your journey.

Of course, residency is a perfectly good stopping point, as you still gain access to the EU and all its attendant benefits.

And you don't *have* to live full-time in Ireland. But do note again that an explicit condition of the Start-up Entrepreneur Visa Scheme is that the business you set up must be headquartered and controlled in Ireland.

A note on Irish personal income tax

First off, we're not tax advisors. So, always check with a qualified accountant or attorney yourself. But, our understanding of Ireland's personal tax system is that once you are resident in Ireland, you will be taxed on worldwide income from all sources. (See http://www.revenue.ie/en/tax/it/who-pays.html).

Obviously, if you're working for your own start-up, your salary will be a deductible expense for the company. But, you'll have to pay personal income tax in Ireland.

The system is complex, and I'm not going to try and explain it all here. But, from the 2014 year of assessment, there are basically two marginal rates of taxation – 20% and 41%.

Each person, depending on their family circumstances – that is, whether they are single or married, and how many dependents they have, and whether there are any health problems or disabilities in the family etc. – is allowed a certain amount of taxable income taxed at the "standard rate" which is 20%.

And, for any income above the "standard rate cut-off" the marginal tax rate is 41%. You can see how different households qualify for different standard rate cut-offs in the table below.

Personal Circumstances	2013	2014
Single, Widowed or a Surviving Civil Partner without qualifying children	€32,800 @ 20%, Balance @ 41%	€32,800 @ 20%, Balance @ 41%
Single, Widowed or a Surviving Civil Partner qualifying for One Parent Family Tax Credit (2013)	€36,800 @ 20%, Balance @ 41%	---
Single, Widowed or a Surviving Civil Partner qualifying for Single Person Child Carer Credit (2014)	---	€36,800 @ 20%, Balance @ 41%
Married or in a Civil Partnership - one Spouse or Civil Partner with income	€41,800 @ 20%, Balance @ 41%	€41,800 @ 20%, Balance @ 41%
Married or in a Civil Partnership - both Spouses or Civil Partners with income	€41,800 @ 20% (with an increase of €23,800 max), Balance @ 41%	€41,800 @ 20% (with an increase of €23,800 max), Balance @ 41%

There are also all sorts of tax credits and allowances, exceptions, and a myriad of rules and regulations.

One particular quirk of Ireland's tax laws deserves special mention. **The first €40,000 in annual income from certain qualifying artistic or literary works is completely tax-free for Irish residents.** (Prior to 2011 ALL income from such works was tax-free.)

If you're a writer, painter, sculptor or composer, this is well worth knowing about.

And as an aside, Ireland is one of the few countries where US retirees can go and receive Social Security payments tax-free. Other places include Canada, UK, Italy and Romania.