

S C H E L S T R A E T E

LAW FIRM

The Brexit vote

For years prior to the Brexit vote, the UK was the main destination for American citizens to reach the Europe Union and freely move, work and reside within its territory. The prospect started to cease once the outcome of the 2016 referendum indicated that 51.9% of the electorate voted to leave the supranational community. The result sent shockwaves around the world and left many British citizens and residents unsure about their future. Following the Withdrawal Agreement, UK citizens are treated as third parties and therefore obtaining a visa or residence or a work permit within the EU is rather difficult for them. Since then, hundreds of companies relocated their offices to countries within the EU, 218 of which moved to the Netherlands.¹ The Netherlands is not only one of the freest economies in the world but is deemed by many to be the Mecca of the equestrian sport. Then, if you are American why is the Netherlands such a perfect destination to start your business?

Starting a business in the Netherlands

American entrepreneurs and proprietors can greatly benefit from the immigration scheme that the Dutch Kingdom offers through the Dutch American Friendship Treaty (DAFT). The Treaty has been in force since 1956 and its objective is to promote the economies of both the United States of America and the Netherlands and to stimulate trade and business on a bi-lateral basis. The Netherlands enforced only two such treaties – with the US and Japan as a declaration of their wish to maintain friendly relations.

The DAFT grants American entrepreneurs a privileged status to conduct business in the Netherlands. Contrary to other third country nationals, American citizens do not have to show that their business activities serve Dutch economic interests. American nationals can enter the Netherlands and remain there for one of two purposes – either carrying out trade between the US and the Netherlands and engaging in related commercial activities or developing and directing the operations of an enterprise in which they have invested or in which they are actively in the process of investing a substantial amount of capital.

¹ <https://www.kvk.nl/english/brexit/surge-in-brexit-companies-moving-to-the-netherlands/>

S C H E L S T R A E T E

LAW FIRM

Obtaining a residence permit

Three requirements need to be satisfied to apply for a residency for self-employment under the Treaty. Firstly, it must be proven that the applicant is engaged in business activities that qualify as “trade” or “consultancy”. Secondly, the business activities must ‘be in accordance with Dutch (corporate) regulations’; licenses and permits. And lastly, a substantial capital investment must be made, legally the minimum capital investment amount is € 4.500,- per business partner. However, it is recommended to invest at least € 5.000,-, to avoid the capital drop below the € 4.500,.

What rights does the residence permit grant?

The residence permit for self-employment under DAFT allows the permit holder to work in self-employment. Any paid employment, including self-employment which de facto is considered paid employment, will be sanctioned with a monetary penalty of at least € 8.000,- for the customer/employer. The residence permit can also be revoked. However, partners who hold a residence permit for family reunion, will be free to participate on the Dutch labor market.

Conclusion

The DAFT grants American entrepreneurs a privileged status to conduct business in the Netherlands. It creates a less burdensome immigration process by granting discretion to the need to show that the business activities serve Dutch economic interest and provides a low minimum capital investment. Furthermore, the procedure is relatively quick – taking usually up to 90 days and creates a possibility of obtaining a residence permit for 2 years. Hence, if you wish to stay within the EU for longer than 90 days every 180 days and wish to invest in the ever-growing equestrian sport business, it could be a great option to take into account!