Germany distinguishes between different kinds of residence titles for specific purposes subject to the length of stay and intended (business) activity in Germany. These include:

- Visa (Schengen visa and national visa)
- Residence permit
- Settlement permit

A visa enables the holder to entry and short-term stays (up to 90 days in any 180-day period) in Germany. A residence or settlement permit is required for long-term stays (more than 90 days in any 180-day period) or for work on a self-employed basis or as an employee in Germany.

The relevant residence title required depends on the investor’s nationality, and particularly on the specific area of business activity intended in Germany. A residence permit is not normally required for the setting up of a business. However, a residence permit is required in those cases where the foreign national intends to run the business on-site.

Who Needs a Residence Title?

EU citizens and citizens of the states of Iceland, Norway, and Liechtenstein do not require any residence title to be able to settle or work in Germany. Swiss nationals have to notify the local immigration office about their long-term stay in Germany in order to get a residence permit certifying their right to free movement.

Non-EU Citizens: Entry and Short-term Stays

Non-EU citizens generally require a Schengen visa for entry and short-term stays in Germany. However, individual rules apply for certain countries. For example, nationals from Argentina, Australia, Brazil, Canada, Israel, Japan, Mexico, New Zealand, South Korea, the USA, and Hong Kong can stay in Germany for up to 90 days (in any 180-day period) without a visa.

Non-EU Citizens: Long-term Stays

For long-term stays, non-EU citizens require a residence or settlement permit. The respective local German mission initially issues a national visa for entry into Germany. The national visa is subsequently converted into a residence permit by the competent local immigration office (Ausländerbehörde). Non-EU citizens from those countries exempt from the short-term stay visa requirements also require a national visa when entering Germany for long-term stay purposes. Exceptions apply for nationals from Australia, Canada, Israel, Japan, New Zealand, South Korea, and the USA who may enter Germany for long-term stay purposes without a national visa. These foreign nationals can directly apply for the necessary residence or settlement permit at the immigration office in Germany.

Application Procedure

The residence title generally has to be applied for at the competent German embassy or consulate general prior to entering Germany. The respective visa is then issued in the applicant’s home country within a period of a few weeks. The application fee is in general EUR 60 for a Schengen visa and EUR 75 for a national visa. Additional fees of up to EUR 100 for a residence permit are also payable.

<table>
<thead>
<tr>
<th>Residence title</th>
<th>Entitlement</th>
<th>Foreign nationals who require a residence title</th>
</tr>
</thead>
<tbody>
<tr>
<td>Visa (Schengen visa and national visa)</td>
<td>Entry into Germany followed by a short-term stay (up to 90 days in any 180-day period).</td>
<td>Non-EU citizens excluding nationals from Argentina, Australia, Brazil, Canada, Israel, Japan, Mexico, New Zealand, South Korea, the USA, Hong Kong, and some other countries.</td>
</tr>
<tr>
<td>Residence permit or settlement permit</td>
<td>Entry into Germany followed by a long-term stay (for which an additional residence or settlement permit is required).</td>
<td>Non-EU citizens excluding nationals from Australia, Canada, Israel, Japan, New Zealand, South Korea, and the USA.</td>
</tr>
<tr>
<td></td>
<td>Long-term stays and stays with the intention to take up gainful occupation.</td>
<td>Non-EU citizens excluding nationals from Iceland, Norway, Liechtenstein, and Switzerland.</td>
</tr>
</tbody>
</table>
INVESTOR'S BASICS

Visa for Incorporation

A Schengen business visa is sufficient for most activities in the company formation phase. It enables its holder to stay in Germany for up to 90 days, during which time all fundamental establishment activities can be performed. Setting up a company in Germany using a Schengen visa does not alone warrant residence permit issue at a later date. If necessary, a residence permit for self-employment or employment should be applied for in due time. A residence permit must also be applied for if the incorporation phase exceeds 90 days.

- **Incorporation Activities with a Schengen Business Visa:**
  - adopting and notarization of articles of association,
  - registration in the commercial register,
  - trade office registration (provided at least one representative on-site in Germany is available),
  - other preparatory activities (e.g. the opening of a bank account, conclusion of contracts).

Residence Permit for Self-Employment

Entrepreneurs from non-EU countries managing a company on-site in Germany in a self-employed capacity require a residence permit for the purpose of self-employment. This permit may be granted if the planned business is expected to have a positive economic effect and has secure financing in place. An individual assessment of the intended business project is then made, taking into account, e.g.: the viability of the underlying business idea, the foreigner’s entrepreneurial experience, the level of capital investment, and whether an economic interest or regional need regarding the intended business activity exists. A residence permit for the purpose of self-employment is limited in time for up to three years. A settlement permit (permanent) can be granted after three years if the investment project has been successfully realized and has stable income prospects.

- **Who is considered self-employed?**
  - Entrepreneurs (including freelance professions)
  - Partners in a partnership
  - Majority shareholders of a GmbH who are also managing directors of the GmbH

Residence Permit for Employment

Non-EU citizens employed in Germany require a residence permit for the purpose of taking up employment. The residence permit for the purpose of taking up employment is limited for a period of up to three years. This can however be extended. A permanent settlement permit can be issued after five years. As a rule, a residence permit for the purpose of taking up employment is only issued if a concrete job offer can be demonstrated.

Approval from the Federal Employment Agency FEA (Bundesagentur für Arbeit) may be required subject to the foreign national’s level of qualification and the characteristics of the job to be performed in Germany. FEA approval for occupational groups is granted where:

- no suitable German or EU employees are available (“priority check”); and
- the foreign employee is hired at the same terms and conditions of employment as comparable German employees (e.g. in terms of wages and working hours).

Certain professional groups can be granted a residence permit for employment without FEA approval.

- **Occupational Groups Exempted from FEA Approval:**
  - Executives (e.g. employed managing directors, managerial employees)
  - Specialists holding a German university degree
  - Scientific research personnel
  - EU Blue Card applicants (please see below)

Highly Qualified Employees

The so-called “EU Blue Card” allows highly qualified non-EU citizens to be fast tracked to employment in Germany. Foreigners may apply for this kind of residence permit if they hold a German university degree (or a proven comparable qualification) and demonstrate a job contract with an annual gross salary of at least EUR 53,600 (2019). The annual gross salary level is lower EUR 41,808 (2019) in professions with a particular skill shortage (e.g. engineers, IT specialists). This category requires FEA approval without priority check. A permanent settlement permit can be granted after 33 months – or after 21 months if the foreign citizen has attained a specified German language proficiency level.