

Answer by **Alexandra Lane, Citizenship & Immigration Solicitor at Payne Hicks Beach**, first published online in the Financial Times on 22 May 2019 and reproduced with kind permission

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Your Questions **Investments**

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Can I include my wife's wealth when applying for an investor visa?

My family is based in Dubai – but we may return to the UK



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Lucy Warwick-Ching 4 HOURS AGO

I am looking to apply for a UK investor visa with my wife and children. Can my wife's assets be included as part of the application to meet the financial investment requirements? Furthermore, our primary family base at the moment is in Dubai. If I subsequently wanted to apply for indefinite leave to remain in the UK, would this extend to my whole family?

Alexandra Lane, solicitor at law firm Payne Hicks Beach, says you can rely on funds in your name, your wife's name or in joint names, even if your wife is not applying with you. If you are relying on funds in your wife's name or in joint names, you must have the written permission of your wife to have control of the money in the UK.

As evidence of the above you will need to submit your marriage certificate and a declaration from your wife that you will have sole control of the money you are investing in the UK for the purpose of the visa.

You must also include a legal opinion from a lawyer practising in the country where the declaration was made confirming the validity of the declaration. These documents must contain specific wording, which requires a careful balance of both the legal requirements in the country concerned and the prescriptive requirements of the UK immigration rules.

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Alexandra Lane, solicitor at law firm Payne Hicks Beach ©Handout

You will also need to submit evidence of the funds, such as a bank statement or portfolio report. The UK immigration authorities require either that the funds have been held continuously for two years before you submit your application, or that you provide evidence of the source of the funds.

Although the immigration rules do not generally investigate the source of funds when held for two years, UK regulatory requirements, particularly for banks and wealth managers, will require significantly more detailed evidence of the source of wealth. Your wife can apply as your dependant, as can any children under 18.

Having invested £2m, after five continuous years in the UK on a tier 1 investor visa you and your dependants could apply for indefinite leave to remain (ILR) in the UK, subject to meeting various requirements of residence and English language and knowledge of life in the UK.

You and your wife would need to spend most of your time in the UK to qualify for ILR, as you can only be absent from the UK for up to 180 days a year. You can extend your investor visa without spending this long in the UK, but this can become complex particularly when you have family members residing in the UK with you, as the immigration rules require that you and your wife “must intend to live with the other . . . throughout the applicant’s stay in the UK”. The UK immigration authorities have indicated that they could take issue with cases where the couple spend significant periods apart.

There are accelerated routes to ILR if you invest £5m, where you can obtain ILR in three years, or if you invest £10m, in two years. However, this accelerated route only applies to the principal investor applicant, not a spouse and children, who must complete five years in the UK before being eligible for ILR.

Anthony Michael, tax director at Deloitte, says the tier 1 investor category applies to those who wish to make a substantial financial investment in the UK. Applicants must prove that they have money under their control, held in a regulated financial institution and disposable in the

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UK, amounting to no less than £2m. The requirements for the tier 1 Investor category recently changed in response to concerns regarding source of funds.

Applicants must now show that they have held the funds for at least two years and that they have passed due diligence and Know Your Client checks with a UK-regulated financial institution when opening an investment account. The options available to tier 1 investors have also recently changed better to benefit the UK economy.

Money held under your control includes money or assets belonging to a spouse or civil, same-sex or unmarried partner. To rely on your wife's assets you must provide evidence of your relationship in the form of your marriage certificate. You must also be able to demonstrate that your wife's money or assets are under your control and free for you to invest in the UK. Your wife will need to agree to provide a declaration confirming the above, and a letter from a legal adviser confirming the declaration is valid.

Dependants may also qualify for ILR, provided they have spent five continuous years in the UK as the main applicant's dependent family members and provided that the main applicant is granted ILR status. The main applicant's spouse/partner is also subject to the residence requirement and, in order for dependent children to obtain ILR, both parents, if applicable, must hold ILR status or be granted ILR at the same time.

The tier 1 category provides an accelerated route to ILR. Applicants may apply for ILR after two or three years if they invest £10m or £5m respectively. However, the accelerated route is only available to the main applicant.

The advice set out above is based on the immigration rules as they currently stand.

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