

Your Passport Portfolio™: Hedging your Bets and Maximizing Opportunities in a Changing World.

David S. Lesperance, Barrister & Solicitor
Spears Russia
October 2008

According to Bloomberg, over the last year, Russia's 25 wealthiest citizens have lost approximately one quarter of a trillion U.S. dollars as a result of world-wide market turmoil. Clearly they have been experiencing the first of two ancient Chinese curses, "May you live in interesting times."

The second curse which they now face is, "May you come to the attention of those in authority". In the present circumstances, those "in authority" could be either the Russian government or the mass of Russian citizens who did not become wealthy and who may become more vocal now that the Russian government is no longer flush with cash in a booming commodities market. Either way, the wealthy would be prudent to spend a small percentage of their remaining wealth to protect themselves, no matter what direction the future winds of change may blow.

If you've read Thomas Friedman's 2005 book The World is Flat, you're familiar with his list of "10 forces that have flattened the world." Those forces include the fall of Communism, the rise of the Internet, business offshoring and outsourcing, and the development of common standards that ensure that software made in Mumbai will work in Moscow or Montreal. When all these trends converged at the beginning of the 21st century, Friedman concluded, they created a world without barriers. A flat world where goods and ideas flow as freely as water flows downhill.

There's just one thing missing from Mr. Friedman's rosy picture: people. People do not cross borders as easily as a courier package on a UPS jet. They do not flow around the world like electrons, nor are they likely to do so for some time. The Russian people know first-hand, that when it comes to mobility, the world is bumpy not flat. Although the days of the Soviet Union and its heavily restricted foreign travel permits are behind them, they know that the rest of the world is still somewhat suspicious of them and their wealth and as a result often imposes a visa requirement on Russian visitors. International tensions arising out of Russian government's recent political and military decisions have also caused a backlash against Russians who wish to visit foreign countries. In fact, I have heard increasing reports of front-line immigration officials, who are responsible for approving these visas, expressing their personal displeasure by delaying or refusing visa applications!

That's why more and more globally minded High Net Worth ("HNW") Russians are using a new tool to ensure their security and freedom; the Passport Portfolio™. They have realized that spreading their risk by becoming citizens or residents of two or more countries constitutes a secure life strategy and sound financial planning. In other words,

the same global economy that so often restricts affluent Russians has also produced a solution that is elegant in its simplicity: a portfolio of citizenships and residences to meet their needs, now and in the future. None of these smart, business-savvy people would ever invest all their assets in one stock or property – they use a portfolio of investments to reduce risk and provide consistent returns. Similarly, HNW Russians are adopting the Passport Portfolio™ approach to reduce risk as they cope with life’s unexpected but frequently occurring challenges.

The idea of looking at citizenships and residences in the same manner as a financial portfolio came to me a number of years ago during a telephone conversation with a Russian client. Before the previous fiscal meltdown, he had taken great pains to diversify his financial holdings out of Russia and its currency. When the economic crisis hit, his material wealth was secured. But he became gravely concerned when the popular press started calling on the government to revoke the passports of wealthy citizens. The goal was to hold the wealthy to ransom, and prevent them from leaving the country until they had repatriated their assets and turned them over to the masses. He realized with horror that he could be caught in the position of having his money abroad and no means to enjoy it. Furthermore, he and his family felt growing danger to their personal safety. He realized they might not always have the papers that would allow them to get on a plane and fly to a safe haven.

Although the odds of this actually occurring were relatively small, the impact would be devastating to him and his family's security. He realized that one must always plan for the worst but hope for the best. So when he reviewed the low cost of “fire insurance” (acquiring another foreign citizenship and residence) against his potential loss of assets and personal freedom his choice became obvious. I helped him create and maintain a Passport Portfolio™ that will now see him and his family through any conceivable peril.

The right Passport Portfolio™ gives HNW Russians the right to work or live in jurisdictions that may be safer, freer, or friendlier to capital. They can enjoy the best of all possible worlds: the freedom to live where they want and do business as they see fit, as well as the privilege of legally insulating themselves from laws, regulations and attitudes that target the affluent and the successful.

People who do not explore the advantages of the Passport Portfolio™ must realize they are limiting themselves to the vagrancies of their original citizenship. They are choosing to accept that they will rely on the benevolence and goodwill of their native government to care for their needs and not treat them like chattel or abuse their rights. History has repeatedly shown this dependence to be a poor choice – especially for HNW individuals, who pride themselves on their freedom and mobility,

Selecting a proper Passport Portfolio™ is a job for sophisticated legal professionals. Although acquisition of another citizenship and residence may alleviate future threats to personal mobility, improperly selected they can create new problems by exposing the individual to significant other perils such as costly divorce settlements and world-wide taxation. Roman Abramovich probably would not have offered such a significant

settlement to his ex-wife, -if he did not think that he would have been even worse off under Britain's divorce laws. Likewise, wealthy individuals who became tax resident in places like the U.K. and the U.S. later discovered the impact of world-wide taxation and the ever shifting sands of tax rules in these jurisdictions.

Aside from defending yourself from arbitrary government actions, a properly prepared and maintained Passport Portfolio™ can open up a new world of opportunity and lifestyle. Today, thanks to e-mail, overnight couriers, global banking and smart phones, people can carry on business from just about any part of the world. Instead of being rooted in one place, they can now roam the globe and stay constantly in touch with family, friends, businesses, suppliers and customers. Families can live in ideal destinations year-round, with the children attending the best schools in the safest jurisdictions while their parents conduct business on the go.

But the same Passport Portfolio™ is not right for everyone. In the past, I have seen a number of clients fall victim to “herd” thinking. When relocating, they did exactly what their friends had done without knowing whether those friends had examined all of the possible solutions or considered all the ramifications of their own move. Since many people acted without thinking it through, it is no surprise that they later found out that their needs were not met. A current example of herd thinking is where many wealthy Russians who flocked to Britain are now fleeing the U.K. divorce courts and non-dom tax changes and thinking only about heading to Switzerland with its lump sum taxation. While I personally like Switzerland, it is not the right solution for everyone. I would be hard pressed to claim that Geneva matches the hustle and bustle of London or New York. And obtaining a Swiss passport is very long, difficult and uncertain process.

Clearly, a Passport Portfolio™ is a sophisticated strategy that has to be carefully devised. Choosing a wrong citizenship or residence option can expose you to personal or financial jeopardy. More importantly, the Passport Portfolio™ decisions you make today will affect generations of your family members – just as the decision to move to the New World changed the lives and destinies of so many Russians and other Europeans in the early years of the 20th century.

The Passport Portfolio™ Process: How It Works

A Passport Portfolio™ is comprised of three basic elements: Citizenship, Residence and Domicile.

Citizenship – the right to live, work and carry the passport of a country – is a valuable asset that is rarely handed out lightly. Unless you are born in the territory or have parents from that country, it generally takes years of residence to qualify for citizenship. In the UK and its territories the naturalization period is five years; in Canada and New Zealand it's three years, and in Singapore it's only two.

Some citizenships offer more benefits than others. Some rights include extensive visa-free travel, dual or multiple citizenship, or the right to live and work within a particular trade bloc – such as the EU. Other trade blocs such as NAFTA offer preferred entry for professionals or HNW business people.

There's also a quicker alternative called **Economic Citizenship**. Countries that offer Economic Citizenship waive the normalization period for people who make an economic contribution to the country. Allow four to eight months for paperwork, and you can have a new citizenship for life. That's especially useful if you have a busy travel schedule: as a supplement to your Russian passport, it can enable you to travel more flexibly, without needing to obtain visas in advance.

Over the years there have been many countries that have offered then closed legal Economic Citizenship programs. Those interested in buying an Economic Citizenship should act sooner rather than later: the ever-changing history of these deals suggests that current windows may not be open forever.

Residence is the right to reside in a country, without (or prior to) obtaining citizenship. It has both a tax and an immigration element. **Tax residence** is usually based upon a count of the number of days a person spends in a jurisdiction or a review of various indicia of residency. **Immigration residence** is usually granted on a temporary or permanent basis. It may allow an individual physical presence, re-entry, employment/study rights as well as land ownership.

Domicile is an estate- tax concept that looks at a person's "*ultimate home*". All persons, even "*perpetual tourists*" are deemed under law to have a domicile. We all acquire a "*domicile of origin*" at birth. Later we may acquire a "*domicile of choice*" by changing our residence and acquiring long-term trappings of a new home.

Clearly, some citizenships and residencies are better than others. I divide them into three categories: Five Stars, Three Stars and One Star.

Five-Star citizenships and residences have great advantages in lifestyle, visa-free travel, local investment opportunities, and preferred access to live and work in trade blocs.

Three-Star citizenships and residencies have the potential to become Five-Stars. For example, residencies that, after the naturalization period, will become Five-Star citizenships – or citizenships in emerging countries that may, in time, join trade blocs.

One-Star citizenships and residencies come with problems, such as poor visa-free travel, world-wide taxation, restrictions on dual citizenship, poor lifestyle and business opportunities, capital and currency expatriation restrictions, mandatory military service or excessive government intrusion.

Add in the needs of a business and/or a growing family, and things become even more complex. The good news is that, the more you properly identify the countries that

represent Five Stars, Three Stars and One Stars to you, the more control you gain over your life, your assets and your future.

A Passport Portfolio™ review will help you answer questions like:

- “Where are the jurisdictions that allow me to do business, be mobile, and visit Russia as often as possible, all while minimizing my global tax burden?”

-“Where can I be free from unwanted government intrusions into my private life, such as taxation, regulation, currency restrictions, military service, or unfair seizure of personal property – yet still get decent caviar?”

-“Where is the best place to get married and live – and not have to give up half my assets in case of divorce?”

-“Where are the best places for my kids to be born?”

- “Where can I live that allows me to build up a sizable estate for my children, yet still have access to modern schools, medical services and cultural institutions?”

Once you realize the world really is your oyster, you may find they have more options than you think. But you need specialized expertise to guide you through those alternatives to find the best combination of solutions. Many immigration lawyers or self proclaimed (and unregulated) immigration “consultants”, only know the citizenship laws of one or two countries and rarely consider the tax, estate or divorce issues surrounding a move to those jurisdictions. The greatest immediate benefit and long-term success can only be achieved by internationally experienced and up to date legal counsel who compare and contrast multiple jurisdictions around the world. They will help identify the best mix of residences, citizenships, and domicile that meet your business, lifestyle and financial planning needs.

Every Passport Portfolio™ is unique. For one recent client we were able to combine elements of Moscow, London, New York, Toronto, Singapore and two islands in the Caribbean to provide the family with a collection of passports and homes that met their immediate and long-term needs for mobility, security and flexibility. In addition, we were able to shelter the family’s assets from forced heirship rules, divorce actions and other litigation, and keep the global tax burden at a minimum-all while allowing them to continue to enjoy their current lifestyle.

When creating a customized Passport Portfolio™, I suggest clients follow a four-step process:

1. **Set out your goals.** Advisors should look not just at your needs and wants, but also those of your spouse, children and business. Remember: this is one of the most important decisions you will ever make. It will impact your children and grandchildren, so your

advisors must consider your long term plans and get it right the first time.

2. Review your existing Passport Portfolio™. Advisors must begin by identifying what rights and benefits you already have with the current citizenships and residences you possess. They should also review the family backgrounds of you, your spouse, and your children. Families are often surprised by how many options – or problems – they already have.

3. Plan an integrated strategy to revise the client's Passport Portfolio™. Any loss or acquisition of a residence, citizenship or domicile can have a profound effect on your life. The Passport Portfolio™ must support the financial, succession, or business plan designed by your other advisors. In addition, the strategy should be consistent with your lifestyle and not have an onerous physical presence or tax burden.

4. Monitor the client's Passport Portfolio™. Laws, taxes, rights and benefits all change over time. In addition, a family's lifestyle will change as family members progress through the normal stages of life. In a world where travel restrictions can change overnight, where passports can be seized or bank accounts frozen, your Passport Portfolio™ can never be static. Just as investment portfolios require regular reviews and adjustments, and so does a Passport Portfolio™.

For HNW Russians, the beleaguered creature called “Humanicus Sovieticus” (as described by Andrei Makine in “Music of a Life”) is clearly evolving into the empowered, flexible adventurous “Humanicus Globus”. With the right tools, they are now free to explore the world, keep one step ahead of negative changes, and take advantage of new opportunities in the increasingly global – but not flat! – economy.

Copyright © David S. Lesperance, Barrister and Solicitor
www.lesperanceassociates.com
E-mail: info@lesperanceassociates.com