

U.S. Lawful Permanent Residents



What is the definition of “Lawful Permanent Resident?”

A lawful permanent resident (LPR) is an individual who has been granted the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws, such status not having changed.

You can lose your lawful permanent resident status, either intentionally or by accident, particularly if you remain outside the United States for too long. It is important that you know what actions to avoid and what steps to take to protect your lawful permanent resident status.

Maintaining Status as an LPR in the U.S.

Returning Residents

If you are an immigrant who is returning to an unrelinquished lawful permanent residence in the United States after a temporary absence abroad not exceeding one year, you must present your Alien Registration Receipt Card (Green Card). The definition of “temporary” absence cannot be defined in terms of its length. It is determined by the facts and circumstances of each case. Entry into the United States once a year for one or several days does not preserve your permanent residence status.

If your temporary absence abroad has exceeded one year, you can no longer use your Green Card as a travel document. You may present a valid reentry permit in lieu of an immigrant visa.

If you have been outside the United States for more than one year and you do not have an Alien Registration Receipt Card, immigrant visa, nor a valid reentry permit, you may apply for a waiver of the document requirement if you can show good cause for failing to present a valid document.

You must always be able to demonstrate that you were a lawful permanent resident at the time you departed the United States, that you departed the United States with the intention to return and that you are returning from a

temporary visit abroad. If your stay abroad was lengthy, you must demonstrate that your stay was due to reasons beyond your control for which you were not responsible.

Reentry Permit

You may apply for a reentry permit prior to your departure from the United States. You must be physically present in the United States at the time the application is made. The issuance of a reentry permit by the U.S. Citizenship & Immigration Services (CIS) constitutes a determination that you are a lawful permanent resident, you intend to depart the United States temporarily, you intend to return to the United States and your departure is not contrary to interests of the United States. You may remain abroad for a period of up to 24 months with a valid reentry permit. However, possession of a valid reentry permit does not guarantee your ability to reenter the United States.

Filing of Taxes

Lawful permanent residents are taxed on worldwide income. Income is taxed in the year in which it is received and deductions for tax purposes are taken in the year paid. You must file your personal income tax return on a “calendar year” tax year. Your tax return must be filed no later than April 15th for the previous calendar year.

You must be careful when considering any foreign earned income exclusions or other exemptions to avoid scrutiny by CIS, who may view such tax positions to be inconsistent with lawful permanent resident status.

Consequence of Certain Criminal Action

You may be subject to losing your lawful permanent resident status and subsequent deportation if you engage in certain criminal activity. The most serious is any crime that is defined by CIS as an “aggravated felony” which now includes a conviction for:

- murder;
- rape or sexual abuse of a minor regardless of the sentence;

- fraud deceit and tax evasion in which the loss to the victim or government exceeds \$10,000;
- money laundering where the amount of funds exceeds \$10,000;
- a crime of violence or theft if the sentence imposed is at least one year regardless of any suspension of the imprisonment;
- owning, controlling, managing, or supervising a prostitution business;
- alien smuggling where the sentence imposed was one year regardless of any suspension of the imprisonment. (An exemption is provided where the offense is committed for the purpose of smuggling your spouse, child or parent.);
- document fraud/false passports where the sentence imposed is one year or more regardless of any suspension of the imprisonment. (An exemption is again provided for a first offense committed for the purpose of assisting your spouse, child or parent.);
- commercial bribery, counterfeiting, forgery, trafficking in vehicle identification numbers, obstruction of justice, perjury or bribery of a witness and failure to appear where the sentence imposed is one year or more regardless of any suspension of the imprisonment;
- failure to appear where the sentence imposed is two years or more regardless of any suspension of the imprisonment;

You may also be subject to losing your lawful permanent resident status and subsequent deportation if you have been convicted of a crime involving moral turpitude committed within five years after admission, if a possible sentence of one year or more may be imposed, or convicted for two crimes involving moral turpitude that are not a “single scheme of criminal misconduct.”

Waivers of inadmissibility for criminal immigration violations are available in some instances. It is important that you seek the advice of competent immigration counsel in these circumstances.

Preserving LPR Status

Your continued intention to remain a lawful permanent resident is central to preserving your LPR status; however, a mere statement to this effect is not alone sufficient. You should:

- always file U.S. tax returns as a resident;
- always obtain a reentry permit if you will be abroad for more than a brief trip;
- always make entries to the United States as a lawful permanent resident;
- maintain your United States bank accounts, credit cards and driver's license;
- and maintain memberships in professional and/or social organizations.

Remember that CIS also considers the following in determining if you have abandoned your lawful permanent resident status:

- place of your actual home;
- place of your employment;
- location of your close family members;
- your spouse and children's immigration status;
- and ownership of property.

Eligibility for U.S. Citizenship

To apply for U.S. citizenship you must be at least 18 years of age.

LPR Status

An applicant must have been lawfully admitted to the United States for permanent residence. Lawful permanent residents have been issued an I-551, Alien Registration Receipt Card (Green Card). Your application must include a copy of your Green Card.

Residence and Physical Presence

You are eligible to file for U.S. citizenship if, immediately preceding the filing of your application, you:

- have been lawfully admitted to permanent residence for five years;
- have resided continuously as a lawful permanent resident in the U.S. for at least five years prior to filing with no absences from the United States for a consecutive period of more than one year. (Absences of more than six months but less than one year break the continuity of residence unless you can establish you did not abandon your residence during such period.);
- have been physically present in the United States for at least 30 months out of the previous five years;
- have resided within a state or district for at least three months.

If you are the spouse of a U.S. citizen, you may be eligible to apply for naturalization after three years, rather than five. You must be living with your U.S. citizen spouse the entire three years, up to and including the application period. Proof of the bona fide relationship will be requested at your interview.

Good Moral Character

You must demonstrate that you have been a person of good moral character for the statutory period (five years or three years if married to a U.S. citizen or one year for Armed Forces expedite) prior to filing for naturalization. However, CIS is not limited to the statutory period in determining whether you have established good moral character. You are permanently barred from naturalization if you have ever been convicted of murder. You are also permanently barred from naturalization if you have been convicted of an aggravated felony as defined in section 101 (a)(43) of the Immigration and Nationality Act on or after Nov. 29, 1990. You also cannot be found to be a person of good moral character if during the last five years you:

- have committed and been convicted of one or more crimes involving moral turpitude;
- have committed and been convicted of two or more

- offenses for which the total sentence imposed was five years or more;
- have committed and been convicted of any controlled substance law, except for a single offense of simple possession of 30 grams or less of marijuana;
 - have been confined to a penal institution during the statutory period as a result of a conviction, for an aggregate period of 180 days or more;
 - have committed and been convicted of two or more gambling offenses;
 - earn or have earned your principle income from illegal gambling;
 - are or have been involved in prostitution or commercialized vice;
 - are or have been involved in smuggling illegal aliens into the United States;
 - are or have been a habitual drunkard;
 - are practicing or have practiced polygamy;
 - have willfully failed or refused to support dependents;
 - or have given false testimony, under oath, in order to receive a benefit under the Immigration and Nationality Act.

Attachment to the Constitution

You must demonstrate that you are attached to the principles of the Constitution of the United States.

Knowledge of the English Language

You must be able to read, write, speak and understand words in ordinary usage in the English language. You are exempt from this requirement if, on the date you file your application, you:

- have been residing in the United States subsequent to a lawful admission for permanent residence for at least 15 years and are over 55 years of age;
- have been residing in the United States subsequent to lawful admission for permanent residence for at least 20 years and you are over 50 years of age;
- or have a medically determinable physical or mental

impairment, where the impairment affects your ability to learn English

Knowledge of U.S. History & Government

You must demonstrate knowledge and understanding of the fundamentals of the history and of the principles and form of government of the United States. You are exempt from this requirement if, on the date of filing your application, you have a medically determinable physical or mental impairment, where the impairment affects your ability to learn U.S. History and Government.

You will be given special consideration in fulfilling this requirement if you have been residing in the United States for at least 20 years and are over the age of 65.

Oath of Allegiance

You must take an oath of allegiance that you will:

- support the Constitution and obey the laws of the United States;
- renounce any foreign allegiance and/or foreign title;
- and bear arms for the Armed Forces of the United States or perform services for the government of the United States when required.

In certain cases, the INS will allow you to take a modified oath if you establish that you are opposed to any type of service in the armed forces based upon religious teaching or belief.

Waivers, Exceptions and Special Cases

There are a number of exceptions to the normal residence and physical presence requirements, including:

- employees, employed under contract abroad by the U.S. government, certain U.S. research institutions, certain U.S. firms or corporations, or certain public international organizations;
- spouses of U.S. citizens employed abroad;
- reduction in the continuous residence requirement

from five years to three years for spouses of U.S. citizens continuing to reside with their U.S. citizen spouse (the physical presence requirement is reduced to half of the three-year period plus one day);

- religious workers (including missionaries, brothers, nuns or sisters) performing ministerial or priestly functions;
- certain members of the military;
- spouses of U.S. citizens who died during a period of honorable service in an active duty status in the Armed Forces of the United States;
- certain veterans who served honorably in periods of armed conflict; or
- employees of certain nonprofit organizations.

The material in this pamphlet represents general legal advice. Since the law is continually changing, some provisions in this pamphlet may be out of date. It is always best to consult an attorney about your legal rights and responsibilities regarding your particular case.

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