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Renunciation of U.S. Citizenship

The Immigration and Nationality Act (INA) governs the ability of a United States citizen to renounce his or her U.S. citizenship. The law provides for the loss of nationality by voluntarily performing the following act with the intent to relinquish his or her U.S. nationality:

"(5) making a formal renunciation of nationality before a diplomatic or consular officer of the United States *in a foreign state*, in such form as may be prescribed by the Secretary of State" (emphasis added).

Elements of Renunciation

A person wishing to renounce his or her U.S. citizenship must voluntarily and with intent to relinquish U.S. citizenship:

1. appear in person before a U.S. consular or diplomatic officer,
2. in a foreign country (normally at a U.S. Embassy or Consulate); and
3. sign an oath of renunciation

Renunciations that do not meet the conditions described above have no legal effect. Americans cannot effectively renounce their citizenship by mail, through an agent, or while in the United States.

Renounce All Rights and Privileges

A person who wants to renounce U.S. citizenship cannot decide to retain some of the privileges of citizenship, as this would be logically inconsistent with the concept of citizenship. Thus, such a person can be said to lack a full understanding of renouncing citizenship and/or lack the necessary intent to renounce citizenship, and the Department of State will not approve a loss of citizenship in such instances.

Dual Nationality / Statelessness

Persons intending to renounce U.S. citizenship should be aware that, unless they already possess a foreign nationality, they may be rendered stateless and, thus, lack the protection of any government. They may also have difficulty traveling as they may not be entitled to a passport from any country. Even if they were not stateless, they would still be required to obtain a visa to travel to the United States, or show that they are eligible for admission pursuant to the terms of the Visa Waiver Pilot Program (VWPP). If found ineligible for a visa or the VWPP to come to the U.S., a renunciant, under certain circumstances, could be permanently barred from entering the United States. Nonetheless, renunciation of U.S. citizenship may not prevent a foreign country from deporting that individual back to the United States in some non-citizen status.

Tax and Military Obligations

Also, persons who wish to renounce U.S. citizenship should also be aware that the fact that a person has renounced U.S. citizenship may have no effect whatsoever on his or her U.S. tax or military service obligations (contact the Internal Revenue Service or U.S. Selective Service for more information). In addition, the act of renouncing U.S. citizenship will not allow persons to avoid possible prosecution for crimes which they may have committed in the United States, or escape the repayment of financial obligations previously incurred in the United States.

Renunciation for Minor Children

Parents cannot renounce U.S. citizenship on behalf of their minor children. Before an oath of renunciation will be administered under Section 349(a)(5) of the INA, a person under the age of eighteen must convince a U.S. diplomatic or consular officer that he/she fully understands the nature and consequences of the oath of renunciation and is voluntarily seeking to renounce his/her U.S. citizenship. United States common law establishes an arbitrary limit of age fourteen under which a child's understanding must be established by substantial evidence.

Irrevocability of Renunciation

Finally, those contemplating a renunciation of U.S. citizenship should understand that the act is irrevocable, except as provided in the INA, and cannot be canceled or set aside absent successful administrative or judicial appeal. Renunciation is the most unequivocal way in which a person can manifest an intention to relinquish U.S. citizenship. Individuals should consider the effects of renouncing U.S. citizenship, described above, before taking this serious and irrevocable action.

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