



MAINTAINING PERMANENT RESIDENT STATUS

Permanent residents of the United States (also known as “green card holders”) are authorized to permanently live and work in the United States. Regardless of whether a permanent resident intends to eventually naturalize status to United States citizenship, maintenance of permanent resident status is critical so as to be able to continue permanent reside in the United States as a green card holder.

Green card holders have certain rights and responsibilities as permanent residents of the United States. The discussion below provides some general guidelines as to what these entail. The below overview addresses:

- The Permanent Resident Card
- Rights & Responsibilities of Permanent Residents
 - Rights of a Permanent Resident
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 - Conditional Permanent Residents & Filing Form I-751
- Residence and Absences from the United States
 - Impact of Absences from the United States on Permanent Residence
 - Absence from the United States of one (1) year or more will break the continuity of residence for naturalization purposes.
 - Travel Documents to Faciliate Re-entry into United States after Absence
- Change of Address Reporting Requirements
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THE PERMANENT RESIDENT CARD

A permanent resident card or “green card” is issued to all permanent residents as proof that they are authorized to live and work in the United States. Permanent residents age 18 or older are required to have a valid permanent resident card in their possession at all times. Current permanent resident cards are valid for 10 years (or 2 years in the case of a conditional resident) and must be renewed before the card expires.

A permanent resident card can be used to prove employment eligibility in the United States when completing the Form I-9, Employment Eligibility Verification. It can also be used to apply for a Social Security Card and a state issued driver’s license. A green card is valid for readmission to the United States after a trip abroad if the trip is more than one (1) year in duration.

RIGHTS & RESPONSIBILITIES OF PERMANENT RESIDENTS

Permanent residents of the United States have certain rights and responsibilities.

RIGHTS OF A PERMANENT RESIDENT:

Permanent residents (green card holders) have the right to:

- Live permanently in the United States provided the permanent resident does not commit any actions that would make him/her removable under immigration law.
- Work in the United States at any legal work of qualification and choosing. (Please note that some jobs will be limited to U.S. citizens for security reasons).
- Be protected by all laws of the United States, the state of residence and local jurisdictions.

RESPONSIBILITIES OF A PERMANENT RESIDENT:

Permanent residents are:

- Required to obey all laws of the United States the states, and localities.
- Required to file income tax returns and report income to the U.S. Internal Revenue Service and state taxing authorities.
- Expected to support the democratic form of government and not to change the government through illegal means.
- Required, if a male age 18 through 25, to register with the Selective Service.

CONDITIONAL PERMANENT RESIDENTS & FILING FORM I-751:

If the permanent residence status is *conditional* (based on a marriage that was less than two years old *on the day* the permanent residence was granted), it is important that the green card holder and petitioner spouse be aware of the requirement to jointly file Form I-751 to remove the condition. The application must be filed in the 90 day window prior to the second anniversary as a conditional resident. The expiration date on the alien registration card (commonly known as green card) is also the date of the second anniversary as a conditional resident. The purpose of the Form I-751 filing is to demonstrate to the USCIS that the green card holder and the petitioning spouse did not get married to evade the immigration laws of the United States.

If the green card holder and the petitioning spouse fail to properly file the Form I-751 Petition to Remove the Conditions on Residence within the 90-day period before the second anniversary as a conditional resident, the conditional resident status will automatically be terminated and the USCIS will order removal proceedings against the green card holder. The burden to comply with USCIS requirements falls on the green card holder—not USCIS. As such, it is important to monitor the timing of filing windows accurately so that the petition for removal of the condition is filed with USCIS in a timely manner.

RESIDENCE AND ABSENCES FROM THE UNITED STATES

While a permanent resident (green card holder) can travel freely outside of the United States, U.S. Immigration law assumes that a person admitted to the United States as an immigrant will live/reside in the United States permanently.

IMPACT OF ABSENCES FROM THE UNITED STATES ON PERMANENT RESIDENT STATUS:

- Extended absences from the United States of six (6) months but less than one year may therefore have an adverse impact upon the retention of permanent resident status. Absences of six (6) months but less than one year will shift the burden of proof to the individual to demonstrate that he has, in fact, NOT abandoned their status as a permanent resident of the United States.
- Remaining outside the United States for more than twelve (12) months may result in a loss of legal permanent resident status. In determining whether an individual has abandoned his/her permanent resident status, the USCIS may consider the following additional criteria:
 - Length of absence(s) from the United States
 - Nature of absence.

- Maintenance of ties to the United States (e.g. ownership of property in United States, other financial assets in the United States, maintenance of a United States home address, family members residing in the United States, etc.).
- Filing of resident tax returns during the entire period of permanent resident status.
- The location and nature of the alien's employment during the absence (United States versus foreign employer, permanency or temporariness of foreign assignment, etc.)

ABSENCE FROM THE UNITED STATES OF TWELVE (12) MONTHS OR MORE WILL BREAK THE CONTINUITY OF RESIDENCE FOR NATURALIZATION PURPOSES:

Maintaining continuity of residence for naturalization purposes is different from maintaining permanent resident status. Maintaining permanent resident status pertains to a permanent resident's intent to return to the United States after a temporary trip abroad. Maintaining continuity of resident for naturalization purposes pertains to the length of absences from the United States.

If a permanent resident is considering naturalizing to obtain United States citizenship, it key to note that absence from the United States of one year or more means that the continuity of residence for naturalization purposes is broken. As such, upon return to the United States, the permanent resident may be required to maintain permanent residence status for an additional four (4) years and one (1) day (or two (2) years and one (1) day if the permanent resident applicant is married to a United States citizen).

Also, because the naturalization application requires detailing all entries and departures to and from the United States, a permanent resident should keep a record of all departures from and entries to the United States as a permanent resident.

TRAVEL DOCUMENTS TO FACILITATE RE-ENTRY INTO THE UNITED STATES AFTER ABSENCE:

Permanent residents will typically use their permanent resident cards to re-enter the United States after a temporary trip abroad provided they are re-entering the United States within one year of their initial departure.

If the permanent resident is returning to the United States after an absence of one year or more, it may be necessary to apply for a "special immigrant visa" or "returning resident visa" at a United States consulate abroad to facilitate re-entry into the United States as a permanent resident. This may entail proving to the consulate that the permanent resident status was in fact NOT abandoned during the absence abroad.

Often times, the permanent resident knows in advance that he or she will be absent from the United States for a more than a year and will need some form of re-entry documentation in

addition to the permanent resident card. In those instances, it is recommended that the permanent resident apply for a re-entry permit. A re-entry permit allows a permanent resident or conditional resident to apply for admission to the United States upon returning from abroad during the permit's validity, without having to obtain a special immigrant visa from a United States consulate. Permanent residents should apply for a re-entry permit if they will be outside the United States for one year or more.

Re-entry permits are generally valid for up to two (2) years and may be extended. Permanent residents who have been absent from the United States for long periods of time or who have filed multiple re-entry permit applications during the course of their permanent residency may possibly be granted validity for one (1) year increments or may not be granted validity at all. The possession of a re-entry permit does not guarantee a permanent resident the right to enter the United States as a permanent resident but does certify that the nature for the absence has been acknowledged by USCIS as temporary. The permanent resident must also be otherwise admissible to the United States as a permanent resident.

CHANGE OF ADDRESS REPORTING REQUIREMENTS

U.S. immigration law and regulations require that all foreign nationals, including lawful permanent residents, report each personal change of address and new address with the USCIS within ten days of moving. It is the permanent resident's obligation as a foreign national in the U.S. to notify the USCIS regarding address changes. You can obtain the form(s) and instructions at <http://uscis.gov/graphics/formsfee/forms/ar-11.htm> and <http://uscis.gov/graphics/formsfee/forms/ar-11sr.htm>.

Failure to comply with the address change notification requirements may affect the ability to remain in the United States and the ability to reenter the United States after travel abroad; noncompliance may also be criminally punishable as a misdemeanor, with a fine not to exceed \$200 and/or imprisonment of not more than thirty days.

VOTING RESTRICTIONS

Only United States citizens may vote in federal elections. Registering to vote or voting in federal elections is a crime for non-United States citizens. Non-United States citizens (including permanent residents) who vote or register to vote in a federal election may be denied naturalization and/or removed (deported) from the United States.

Some jurisdictions in the United States permit non-United States citizens to vote in local elections and this should be verified by the permanent resident with the local voting authority. However, even if a permanent resident may vote in a local election, the permanent resident is NOT eligible to vote in a federal election or any election that requires United States citizenship.

ABANDONMENT OF PERMANENT RESIDENT STATUS

Permanent resident status may be deemed abandoned by USCIS if the permanent resident:

- Moves to another country intending to live there permanently.
- Remains outside of the United States for more than one (1) year without obtaining a reentry permit or special immigrant visa. However, in determining whether permanent resident status has been abandoned, any length of absence from the United States may be considered, even if less than one (1) year.
- Remains outside of the United States for more than two (2) years after issuance of a reentry permit without obtaining a special immigrant visa. However, in determining whether permanent resident status has been abandoned, any length of absence from the United States may be considered, even if less than one (1) year
- Fails to file income tax returns as a resident while living outside of the United States for any period.
- Declares himself/herself a “nonimmigrant” on income tax returns.

Permanent residents should also be aware that permanent resident status can be lost if the permanent resident is found to have committed an act that makes him/her removable from the United States. If such an act is committed, the permanent resident may be brought before immigration court to determine whether there is a right to remain in the United States as a permanent resident.

Permanent residents who are contemplating a lengthy absence outside the United States or who have general questions about maintaining permanent residence status should contact Younossi Law to discuss the impact, if any, on their permanent resident status in the United States.