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ATTORNEYS AT LAW

U.S. Citizenship

A U.S. Permanent Resident is eligible to apply for naturalization (U.S. citizenship) after he or she has been a Permanent Resident for five years (three years if they are married to and residing with a U.S. citizen spouse). At that time, the applicant will also need to establish that he or she is a person of good moral character and has a basic knowledge of United States history and government.

In addition, there are also physical residence requirements in connection with qualifying for citizenship:

- a. the applicant must have spent at least one-half of the required five (or three) year period physically present in the United States; and
- b. no single trip outside the United States during the applicable five or three year period can have been for one year or more, unless the applicant had filed and received approval of an Application to Preserve Continuity of Residence for Naturalization on Form N-470.

There is no requirement that a U.S. Permanent Resident become a U.S. citizen.

Conviction for Certain Crimes

Please be aware that a criminal conviction for certain types of crimes may lead to loss of permanent residence and deportation from the United States. Any type of drugs or firearms convictions carries particularly heavy immigration-related consequences. If a permanent resident is charged with any crime, it is important to consult with immigration counsel in conjunction with criminal counsel to determine whether a conviction could have adverse immigration related consequences.

Selective Service Registration

All male residents of the United States between the ages of 18 and 26, including Permanent Residents, must register for potential military service with the U.S. Selective Service. This can be done at any post office. Failure to register can later result in a denial of naturalization.

Changes of Employment

A U.S. Permanent Resident is allowed to live and work anywhere in the United States. However, if permanent residence is obtained through an employer (for example, through a labor certification) changing employers too quickly after obtaining permanent residence could adversely affect immigration status. This is because applications based on employment are premised on the employer's and employee's intent that the employment relationship continue for an indefinite period of time at the time the permanent residence is granted. Changing employers too quickly after obtaining permanent residence through certain employment based procedures, such as labor certification, could result in the USCIS deciding at a later date that permanent residence had been improperly obtained.

Income Taxes / Tax Status Upon the Death of a Spouse

U.S. permanent residents are subject to U.S. income tax on all income worldwide, regardless of where earned. Failure to properly report and pay income taxes could adversely affect

permanent residence status and the ability to become a U.S. citizen. In addition, claiming to be a non-resident for U.S. tax purposes, even if while spending a substantial amount of time overseas, can also have adverse consequences on a person's immigration status. If a U.S. permanent resident files taxes as a nonresident, the CIS will conclude he or she has abandoned his or her permanent resident status. In some instances, when a U.S. citizen spouse dies, it is possible that a Permanent Resident surviving spouse may face a higher rate of taxation than a U.S. citizen would. For more detailed tax information or advice, please consult a tax professional (accountant or attorney).

Conditional Permanent Residence

If permanent residence was obtained through a marriage less than two years old, or as an Investor, then the individual is granted "conditional" permanent residence (CPR) with a two year expiration date. In order to remove the "conditional" basis of the grant of permanent residence it is necessary to file an additional application during a deadline period between 21 months and two years from the date of admission. It is critical that this application be filed during the applicable time frame since the green card status expires otherwise. If a marriage does not last the two year period, a waiver may be available. During the two year period the CPR is entitled to the same rights and privileges as any other Permanent Resident, including travel and employment. The two year CPR period also counts toward the amount of residency needed for naturalization.

Expiration of the "Green Card"

Modern Alien Registration Receipt Cards, even those that are not conditional, carry an expiration date of ten years. This does not mean that permanent residence status expires at this time. Rather, it signifies that the Alien Registration Receipt Card needs to be replaced. (See above for the rules concerning Conditional Permanent Residents).

Please note that this memorandum is generic in nature and is not intended to be a substitute for specific legal advice in a given situation. If you have any questions about these issues or any other area of Immigration Law please contact our office.