

### **\*\*\*MORE Frequently Asked Questions\*\*\***

#### **How can I become a United States Citizen?**

A person may become a U.S. citizen by birth or through naturalization. People are born U.S. citizens if they are born in the United States or if they are born to a U.S. Citizen.

If you were born in the United States (including, in most cases, Puerto Rico, Guam, and the U.S. Virgin Islands), you are an American citizen at birth (unless you were born to a foreign diplomat). Your birth certificate is proof of your citizenship.

#### **What is Naturalization?**

The act of making a person a citizen of the United States who was not born with that status. An application for citizenship is an application for Naturalization.

#### **How do I become a Naturalized Citizen?**

If you are not a U.S. citizen by birth, you may be eligible to become a citizen through naturalization. People who are 18 years and older use the “Application for Naturalization” (Form N-400) to become naturalized. Children who are deriving citizenship for naturalized parents used the “Application for a Certificate of Citizenship” (Form N-600) to become naturalized.

#### **What are the requirements for Naturalization?**

You may apply for naturalization if: (1) you have been a lawful permanent resident for five years, (2) you have been a lawful permanent resident for three years, have been married to a U.S. Citizen for those three years, and continue to be married to that U.S. Citizen, (3) you are a lawful permanent resident child of United States citizen parents, or (4) you have qualifying military service. Children under 18 may automatically become citizens when their parents naturalize.

#### **How long will it take to naturalize?**

The naturalization process is a long one. The average time for complete naturalization is two years.

#### **How long does it take to immigrate to the United States?**

Immigrating to the United States is often a difficult process. In addition, there may be long delays due to backlogs. In order to maintain an orderly immigration process, the United States has established a waiting list system. While this makes for an orderly process, it can create backlogs of many years for certain countries and certain categories. Understanding how the system works will better allow you to estimate how long it will take a person to actually

immigrate to the United States. It will also help you to understand why some people seem to immigrate quickly while others take much longer.

### Immediate Relatives and Preferences

In order to understand the system, you must know that there are three major categories of people who can immigrate to the United States. (For more information, contact the Law Offices of Eli M. Kantor @ (310) 274-8216.) Depending into which group a person falls will greatly affect how soon he or she can immigrate:

#### ***1. Immediate Relatives***

Immediate relatives are:

- spouses of United States citizens
- children of United States citizens under the age of 21
- parents of United States citizens who are over 21
  - o There is no limit to the number of these people who can immigrate to the United States. Therefore, there are no backlogs. This means that such a person can immigrate as soon as the paperwork is completed. For a person living outside the United States who fits within this category, there are three distinct steps.

The average processing times are:

- 2-3 months for the visa petition to be approved by the Immigration Service
- 1-2 months to receive a set of forms known as Packet 3 from the Department of State
- 2-3 months until an interview is scheduled at the American Consulate.
  - o For people in the United States, the process is sometimes longer, due to the large volume of cases. In such a case, the total processing time may be up to two years depending upon the Immigration Service office that has jurisdiction over the place where the immigrating person is living.

#### ***2. Family Preferences***

Approximately 350,000 persons can immigrate to the United States as family preference relatives in any given year. There are four family preference categories:

**First preference** - sons and daughters of United States citizens over 21 years old

**Second preference**- sons and daughters and spouses of permanent residents  
2A sons and daughters under 21 years old and spouses  
2B sons and daughters over 21 years old

**Third Preference** - married sons and daughters of United States citizens

**Fourth Preference** - brothers and sisters of United States citizens

Since there are over two million eligible people in the family preference categories but only 350,000 spaces available, not all of them will be allowed to immigrate this year. Most preferences have become oversubscribed, creating backlogs. This means that some persons in those preferences must wait until the next year to immigrate, and some even

longer. Individuals immigrating under the First Preference category currently have a wait of approximately two years. Historically, Fourth Preference has been greatly oversubscribed, with a waiting list of 20-25 years. Persons who fall in the Second Preference for spouses and children under 21 years old may have a wait of between 5-6 years. Persons who are Second Preference sons and daughters over the age of 21 have a wait of approximately 8-10 years. The third preference backlog is approximately 5-6 years. The Philippines and Mexico usually have longer family preference backlogs than the rest of the countries in the world. Accordingly, unless Congress acts to allocate more immigrant visas to these family preferences, which are all oversubscribed, persons wishing to immigrate should consider "Employment Preferences", which are all current at this time.

### **3. Employment Preferences**

There are approximately 140,000 people who can immigrate under the five employment preferences per year. Employment preferences are as follows:

**First Preference**- Persons of extraordinary ability, outstanding professors and researchers, and certain multinational executives and managers.

**Second Preference** -Members of the professions holding Master's or Ph.D. degrees or persons of exceptional ability in the sciences, arts or business.

**Third Preference** - Professionals, skilled workers, and other workers Other Workers are a sub-category of persons who are in jobs which require less than two years of education, training and experience.

**Fourth Preference** - Special immigrants, including religious workers.

**Fifth Preference**- Investors who create employment in the United States.

As of this writing, May of 2003, all employment based categories are current. However, the government processing time is considerable. A labor certification application can take approximately three months to two years, depending on where it is filed. The Immigrant visa petition (Form I-140) and the final permanent residence processing, (Form I-485) if done in the U.S., may take up to two years. (For more information about immigrating under an employment preference, contact the Law Offices of Eli Kantor @ (310) 274-8216.)

### **\*\*Other Factors Affecting Immigration**

Besides an overall cap as to the number of people who can immigrate to the United States in one year, there are other factors which affect how quickly a person can immigrate to the United States, including:

**Country of Nationality**- Congress has established a maximum number of people that can come from any one country in any given year. Historically, certain countries in the world have contributed more immigrants than others. Currently, there are four countries in the

world which reach their maximum each year: China, India, Mexico, and Philippines. Persons who are born in these countries, therefore, have a greater likelihood of having to wait longer to be able to immigrate than persons in the same preference category from other countries.

**Per Cent Allocations Between Preferences**- The law does not allocate equal numbers to each preference category, nor is there equal demand for each preference category. For example, family first preference (unmarried sons and daughters of U.S. citizens) is allocated 23,400 visa numbers per year. Fourth preference (brothers and sisters of adult U.S. citizens) is allocated 65,000, almost three times as many visa numbers per year. Unfortunately, over 1.5 million people are currently waiting in Fourth Preference. Therefore, there are extremely lengthy delays in this category.

**Fall Down** -The law requires that all numbers be used each year. Under certain circumstances, one category may not use all of its numbers. The leftover numbers usually fall down to a lower preference category. For example, if all the numbers allocated for Family First Preference are not used in a year, the unused numbers would go to Family Second Preference to be used by spouses and sons and daughters of permanent residents. Brothers and sisters of United States citizens are eligible to receive any numbers not used by the first three Family preferences. Unfortunately, no unused numbers ever reach fourth preference.

#### *If I am naturalized, is my child a citizen?*

Usually if children are permanent residents they can derive citizenship from their naturalized parents. In most cases, your child is a citizen if on or all of the following are true:

- The other parent is also naturalized
- You are the only other surviving parent (the other parent is deceased) or
- You have legal custody (if you and the other parent are legally separated or divorced.) and, The child was under 18 when the parent(s) naturalized, the child was not married when the parent(s) naturalized; and the child was a Permanent Resident before his or her 18<sup>th</sup> birthday.

#### *What is an Immigrant?*

A person coming to the US to remain permanently or for an indefinite period of time and to make the United States the primary place of residence. A permanent resident of the US is an immigrant. A person who plans to become a permanent resident is an intending immigrant.

#### *What is a Visa?*

An authorization issued by a US consul permitting a person to come to a US port or inspection point to apply to be admitted to the US for the purpose of the particular Visa. A visa does not

give the bearer the right to enter the US but only the right to apply to be admitted at an inspection point.

### What is an Immigrant Visa?

An Immigrant Visa is the visa given to a person by a US consul after qualifying for permanent residence. After arriving in the US, the person will receive a green card. Immigrant visas are issued to those who qualify for residence in the United States. There are various applications for residence, some are listed below:

- Employment-based visas and special ability visas
- Family relations visas
- Lottery diversity visas
- Religious worker visas
- Investor/entrepreneur visas
- Refugee/asylum/protected status

### What is a Nonimmigrant?

A person coming to the US for a limited period of time who intends to return to another country after the stay in the US ends. Also, a class or type of visa issued for a nonimmigrant purpose such as visitor, student, diplomat, and others.

### What is a Nonimmigrant Visa?

A nonimmigrant visa is a visa that allows a nonimmigrant to remain within the United States for a particular purpose. A nonimmigrant visa for a particular category is valid for entry only for the purpose for which it was originally issued. For example, a student visa cannot be used for entry as a visitor, nor can the possessor of a visitor visa enter to study.

A visa is not a guarantee of entry into the United States. The bearer of the visa is subject to inspection at the port of entry by US immigration officials who have authority to deny admission. Therefore, the recipient of a visa should carry with him/her, for possible presentation to immigration inspectors, the evidence submitted to the consular officer when the visa was obtained.

The validity period shown in a nonimmigrant visa relates only to the period during which it may be used in making application for admission into the United States, it does not indicate the length of time the alien may spend in the United States. The U.S. Immigration authorities at the port of entry determine the period for which the bearer of a nonimmigrant visa is authorized to remain in the United States. A nonimmigrant that remains in the United States beyond the period for which he/she has been granted permission to stay may become subject to deportation.

*What is a Permanent Resident?*

A status held by a person after qualifying and being registered by the Immigration Service. This status allows the person to live permanently in the US, to travel in and out without a visa, to work at any job, to accumulate time toward US citizenship. The status is shown by possession of an identification card commonly called a green card.

*Is it possible to be a dual citizen of the United States and another country?*

Yes. If you have been a dual citizen from birth or childhood, or you became a citizen of another country after already having US citizenship, you may qualify for dual citizenship. As long as the other country in question does not have any laws or regulations requiring you to formally renounce your US citizenship before US consular officials, then current US law unambiguously assures your right to keep both citizenships for life.

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