



PRESERVING PERMANENT RESIDENCE

The following general information is provided to help ensure that you do not endanger your status as a permanent resident.

The U.S. government can make a determination that you have abandoned your residency if you stay out of the United States for too long.

You should not assume that you can preserve your status as a permanent resident by simply returning to the U.S. once every 365 days. The Department of Homeland Security will not accept a yearly travel pattern and may challenge your status if you are out of the U.S. for as little as 180 days (approximately 6 months). An absence of 180 days or more can raise a red flag as to whether you have abandoned your permanent resident status. (Keep in mind that absences of 180 days or longer can also affect your ability to naturalize.)

Although absences of less than 180 days should not affect one's residency, our office has received reports that some Permanent Residents have been hassled at the Port of Entry for absences as short as 4 or 5 months.

The safest and most conservative approach is the best one, i.e., limit the number and length of your trips outside the U.S. as much as possible until US citizenship is attained. If you plan on traveling outside the U.S. for more than 180 days and less than one year, you should either contact our offices first to ensure you have the proper documentation for reentry or return before 180 days has passed.

When you reenter the US after a long trip, we recommend that you prepare a 10 second explanation to give to the Port of Entry Officer regarding the reason for your extended absence. The Department of Homeland Security may also look to see if you have taken up residence abroad, accepted permanent employment abroad, filed US federal income tax returns, and maintained ties to the U.S. such as ownership of property, bank accounts, credit cards, driver's license, and location of close family members, to determine if you have abandoned your permanent resident status.

You should be prepared to convince the Port of Entry officer that you did not abandon your residence. Documentation of your ties to the US, covering the period of your absence, may be helpful. US bank statements, proof of a US residence, valid driver's license, US credit card statements, bills for US utilities, proof of close family members residing in the US, US tax returns, etc. Also, evidence of the reason for your absence **might** be helpful, depending on the reason.

For example, if you had initially planned a 4 month trip to visit your mother overseas, but then stayed much longer because she developed a serious health problem while you were there, you could show the Port of Entry Officer the original return ticket you purchased, showing an original return date after 4 months (this shows your intention). You could also show the POE officer a letter from your mother's doctor and other medical records as proof that your mother's illness was serious.

Please note that if you fail to pay United States income taxes as a "resident" during the period of absence from the US, you will probably be considered to have abandoned your residence even if you have a reentry permit.

Finally, if the Port of Entry Officers inform you that you have abandoned your residency and ask you to sign a form acknowledging that you abandoned your residency, please be advised that this is not your only option. If you refuse to sign the form, the Port of Entry Officer will be forced to place you in removal proceedings. In removal proceedings, an Immigration Judge will determine whether or not you abandoned your residency. You would have a chance to hire an attorney and present evidence at a future hearing to prove that you did not abandon your residence.

If you plan to be out of the United States for one year or more, you must apply for a Reentry Permit.

You must have a valid Reentry Permit to reenter the U.S. if you have been out of the US for 1 year or longer. You must file your application for this document while you are in the United States. In other words, the application must be "received" by USCIS before you leave the country. Also, as of the date of this memo, you must appear for an appointment to have your biometrics taken, which could take an additional 6 weeks or more after filing. A reentry permit does not guarantee readmission to the U.S., but it does confirm that the trip has been accepted by the U.S. government as temporary and that at the time you left, you intended to maintain your permanent resident status.

Reentry permits are usually valid for 2 years from the date of issuance. However, if the applicant has been absent from the U.S. for more than four of the five years preceding the application, the reentry permit may only be issued for up to one year or denied. USCIS will not issue reentry permits to you indefinitely.

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