



LOSS OF U.S. CITIZENSHIP

Section 349 of the Immigration and Nationality Act (8 U.S.C. 148), as amended, states that U.S. citizens are subject to loss of citizenship if they perform certain *specified acts voluntarily and with the intention to relinquish* U.S. citizenship. Briefly stated, these acts include:

1. Obtaining naturalization in a foreign state (Sec. 349 (a) (1) INA);
2. Taking an oath, affirmation or other formal declaration to a foreign state or its political subdivisions (Sec. 349 (a) (2) INA);
3. Entering or serving in the armed forces of a foreign state engaged in hostilities against the U.S. or serving as a commissioned or non-commissioned officer in the armed forces of a foreign state (Sec. 349 (a) (3) INA);
4. Accepting employment with a foreign government if (a) one has the nationality of that foreign state or (b) an oath or declaration of allegiance is required in accepting the position (Sec. 349 (a) (4) INA);
5. Formally renouncing U.S. citizenship before a U.S. diplomatic or consular officer outside the United States (sec. 349 (a) (5) INA);
6. Formally renouncing U.S. citizenship within the U.S. (but only under strict, narrow statutory conditions) (Sec. 349 (a) (6) INA);
7. Conviction for an act of treason (Sec. 349 (a) (7) INA).

Section 349(a)(1) of the Immigration and Nationality Act (INA), as amended, states that a person loses his or her U.S. nationality when that person naturalizes in a foreign state voluntarily with the intention of relinquishing his or her United States nationality. This section applies to persons who are 18 years of age or older at the time of naturalization.

The Department has adopted an administrative presumption regarding certain acts and the intent to commit them. One of the acts is naturalizing in a foreign country. In that case, intent to retain U.S. nationality is presumed. (22 C.F.R. § 50.40(a)) However, the same regulation further states that “A person who affirmatively asserts to a consular officer, after he or she has committed a

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potentially expatriating act, that it was his or her intent to relinquish U.S. citizenship will lose his or her U.S. citizenship.”

Renunciation is the most unequivocal way in which a person can manifest an intention to relinquish U.S. citizenship. Section 349(a)(5) of the INA states that a person loses his or her U.S. nationality when that person makes a formal renunciation of nationality before a diplomatic or consular officer of the United States in a foreign state in a manner prescribed by the Secretary of State.

In accordance with Section 358 of the Immigration and Nationality Act, while persons seeking to renounce U.S. citizenship submit the necessary documentation to a U.S. consular officer at a U.S. Foreign Service post abroad, the decision whether to approve the renunciation is made by the Department of State in Washington, D.C. Accordingly, unless and until a Certificate of Loss of Nationality is approved by the U.S. Department of State, the oath of renunciation, even though signed by the individual is not/not legally effective in terminating the person's U.S. citizenship.

The U.S. Department of State has concluded that the intention to relinquish U.S. nationality required for purposes of finding loss of nationality under Section 349(a) of the INA does not exist when a renunciant plans or claims a right to continue to reside in the United States, unless the renunciant demonstrates that such residence will be as an alien documented properly under U.S. law.

For additional information on the loss of U.S. citizenship, please visit the Department of State's website, Travel.State.Gov, at http://travel.state.gov/law/citizenship/citizenship_778.html.