



TRAVEL ISSUES FOR PERMANENT RESIDENTS IN PANDEMIC TIMES

During the COVID-19 pandemic, travel restrictions can change quickly for both lawful permanent residents and others seeking to enter or return to the United States. If at all possible, traveling outside the United States should be avoided except in the most urgent situations.

If you are a lawful permanent resident (LPR), you should keep the following concepts in mind when considering travel outside the United States:

You Must Maintain a Permanent U.S. Home or Risk Losing Your Status



< 180 Days

Absence from the United States of less than 180 days = **no presumption of abandonment of permanent residence.**



> 180 Days
< 1 Year

Absence from the United States of more than 180 days, but less than one year = **there is a rebuttable presumption that you may have abandoned permanent residence** (meaning the government presumes you have abandoned your residence and the burden is on you to prove otherwise).



> 1 Year

Absence from the United States of more than one year = **automatic loss of LPR status** unless appropriate steps were taken prior to departure to preserve status.

Preserve LPR Status by Applying for a Reentry Permit



If you know or believe you will be outside the United States for more than a year, you should apply for a reentry permit with USCIS **BEFORE** you leave. Your immigration attorney can help you with this. You will need to be physically present in the United States when the application is filed. You will also need to be in the United States for biometrics processing, which is usually scheduled anywhere from several weeks to several months after USCIS receives the application, so plan ahead as much as possible.

What if you did not obtain a reentry permit before leaving and remain outside the United States for more than one year?

USCIS has not announced any policy exception regarding this issue. LPRs who have stayed outside of the United States for more than one year, or longer than the validity of their reentry permits, are generally considered to have abandoned their LPR status.

If your situation falls within either of these scenarios and you wish to return to the United States, you will need to obtain an SB-1 Returning Resident visa before traveling to the United States from the U.S. embassy or consulate in the country where you are residing.



If You Are Unable to Return to the United States Within One Year Due to Pandemic-Related Travel Restrictions, You Should Be Prepared to Provide Evidence of the Following:

- Timely attempts to travel back to the United States, such as canceled airline travel documents and emails or other correspondence documenting your intent to return to the United States and your inability to travel.
 - If you do not have any of these, be prepared to provide evidence establishing why you could not travel (such as evidence of local lockdowns or government-mandated travel restrictions).
- Continued ties to the United States, such as continued payment of any mortgages or rent as well as any associated housing costs. Also, be prepared to document your temporary housing arrangement (i.e. that you own no property) in the foreign country.
- Evidence that you maintained an employment relationship in the United States, such as an employer letter showing you had a leave of absence or you will be rehired upon your return to the United States. Also, provide evidence that you did not work in the foreign country, except possibly for your U.S. employer.
- If applicable, evidence of illness, either of yourself or a family member, that kept you from traveling. If applicable, evidence that other family members stayed behind in the United States while you were abroad and unable to return.
- Financial evidence of continued U.S. ties, such as U.S. tax returns, banking records, etc.

Seeking U.S. Citizenship After Lengthy Travel

To apply for naturalization, an LPR must have been physically present in the United States for at least half of the required period of continuous residence (i.e., 30 months or 18 months depending on the basis for applying), and must have lived for three (3) months in the state or USCIS district of residence.

The effect of absences of over one year due to the pandemic has not yet been determined by USCIS, but at this time, your naturalization may need to be put on hold if you have a lengthy absence that could affect eligibility. Consult your immigration attorney for possible USCIS policy exceptions due to the large number of LPRs who were unable to return to the United States due to the COVID-19 pandemic.

Other Travel Restrictions to Remember

Immigrant and Nonimmigrant Visa Bans Lifted

If you are awaiting entry of a family member, President Biden issued an executive order on February 24, 2021, lifting the immigrant visa ban (Presidential Proclamation 10014), thus allowing family members of U.S. citizens and green card holders to obtain immigrant visas and join their families in the United States. Moreover, on March 31, 2021, the nonimmigrant visa ban (Presidential Proclamation 10052) restricting the entry of temporary workers into the United States was also lifted.

Travel to Other Countries

If you are contemplating other international travel, you should confirm admission requirements and procedures as most countries have implemented travel restrictions for entry, in the form of either: a) Mandatory quarantines; b) Enhanced health screening upon arrival or return; c) Prohibitions on travel for all non-citizens of those countries; and d) Temporary closure of consulates.

What Our Office Is Doing

If you have questions regarding your case, we encourage you to contact our office at The Dutta Law Firm at (212) 495-9089.