

Legal Considerations For Traveling & Living Abroad

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After a winter like the one we just had, many attorneys (and their clients) may be thinking of leaving the state or even the country, at least temporarily. In addition to those seeking better weather, the global economy and the ability for so many people to telecommute has increased the viability of living and working outside the United States. With all that in mind, the following are some timely U.S. legal considerations for those who are traveling or living internationally:

Saving Time Through U.S. Customs

For people who travel internationally often, the delays associated with clearing customs are real; but there are a few programs to facilitate faster customs clearance. First, U.S. Customs operates Global Entry, a program at 40-plus airports that allows low-risk travelers from the United States, the Netherlands, South Korea, Mexico, and soon India, to be preapproved to clear U.S. Customs quickly. Over one million people have already been designated as trusted travelers through this program.

In addition to Global Entry, the NEXUS program provides comparable benefits to Canadian citizens and permanent residents. Both the U.S. and Canadian governments are involved in approving NEXUS cards, which are valid for five years and renewable. Further, Automated Passport Control (APC) kiosks are now in use at several airports, including Orlando, Chicago O'Hare, Dallas, Miami, and both NYC Kennedy and Newark airports. APC kiosks are self-service and available to all U.S. and Canadian travelers, not just those enrolled in Global Entry. The APC kiosks can significantly shorten the time in which travelers clear customs. Details on all these programs can be found at <http://www.cbp.gov/travel/trusted-traveler-programs>.

Longer Term Stays Abroad

Immigration: It often seems that after a foreignborn professional completes the arduous process of obtaining U.S. permanent resident status (green card status), the next career move for that person or his/her spouse is to take a role overseas. In such circumstances green card holders can do various things to protect their green card status and their ability to return to the United States to live and work; however, considerable advanced planning should be used. Often there is confusion, even among U.S. customs officers, associated with how long a person can be abroad and how that may impact green card status and processing for U.S. citizenship (naturalization) in the future. The U.S. Immigration Service provides for re-entry permits, which are useful for

the future. The U.S. Immigration Service provides for re-entry permits, which are useful for temporary assignments because they substantiate an individual's interest in retaining U.S. permanent residence. In more narrow circumstances, people can seek benefits under Form N-470 (Application to Preserve Residence for Purposes of Naturalization) and/or fast-track naturalization. Spouses of U.S. citizens assigned abroad for certain U.S. companies or certain U.S. nonprofits may be eligible for fasttrack naturalization under Immigration Act Section 319(b).

Tax: Besides U.S. immigration law considerations, any U.S. citizen or green card holder who will be spending considerable time outside the United States should be sure to analyze tax issues. The IRS is taking a more active role in global tax compliance, including recognizing there is widespread noncompliance. High net worth individuals should pay careful consideration to the Expatriation Tax.

Banking: In the last 12 months, there have been a record number of U.S. citizens renouncing their U.S. citizenship. It is speculated that this sharp increase in renunciations is directly tied to the implementation of the Foreign Account Tax Compliance Act (FATCA). In 2013, 3,000 Americans renounced their citizenship or longterm permanent residence status, which is three times the average of the previous five years. On July 1, 2014, FATCA will require foreign financial institutions to report to the IRS assets of any U.S. citizen of \$50,000 or more. Noncompliant banks are subject to a 30 percent withholding tax on securities transactions that originate in the United States. Because of the draconian penalties, a number of foreign financial institutions have announced they will stop serving U.S. citizen customers and based on the record number of renunciations, it seems some U.S. citizens may like their bank more than their country.

Health Insurance: The Affordable Care Act (ACA) famously mandates that all U.S. citizens obtain health insurance or be subject to a tax. The individual mandate applies to U.S. citizens, green card holders and some non-immigrants (mainly those who are considered resident aliens for tax purposes). As of the date of this writing, the IRS has indicated that the individual mandate does not apply to U.S. citizens or green card holders living abroad.

The possibility of living and working abroad is in many ways as easy as ever, but as was said in an earlier era of the British Empire, the sun never sets on U.S. legal compliance.

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