



## **N-470 APPLICATION TO PRESERVE RESIDENCE FOR NATURALIZATION PURPOSES**

Maintaining continuity of residence for naturalization purposes is different from maintaining permanent resident status. Maintaining permanent resident status pertains to a permanent resident's intent to return to the United States after a temporary trip abroad. Maintaining continuity of resident for naturalization purposes pertains to the length of absences from the United States.

In order to become a naturalized citizen of the United States, permanent residents must meet a number of requirements. Two of these requirements relate to actual residence in the United States.

- Generally, applicants for naturalization must reside in the United States continuously for at least 5 years as a permanent resident (3 years if the applicant is married to a United States citizen) immediately preceding the date of application filing for naturalization.
- Additionally, naturalization applicants are required to have been physically present in the United States for at least 30 months of those 5 years (18 months if the applicant is married to a United States citizen).

Absence from the United States of one year or more means that the continuity of residence for naturalization purposes is broken. As such, upon return to the United States after such an absence, the permanent resident may be required to maintain permanent residence status for an additional four (4) years and one (1) day (or two (2) years and one (1) day if the permanent resident applicant is married to a United States citizen).

In certain limited situations, a permanent resident may be able to preserve residency for naturalization purposes, even though they have been physically present outside the United States for more than one (1) year. Thus, the time spent abroad may be counted toward the permanent residency requirement. To obtain approval to preserve residency, such permanent residents must file a Form N-470 Application.

## ELIGIBILITY FOR N-470

A permanent resident may be eligible for N-470 benefits if:

1. The permanent resident has been physically present and residing in the United States as a permanent resident for one continuous year prior to the departure from the United States;
2. The permanent resident's absence from the United States is:
  - On behalf of the United States government. The permanent resident is employed or will be employed by, or is under contract with the United States government. This includes members of the United States Armed Forces.
  - For the purpose of carrying on scientific research on behalf of an American institution of research. The permanent resident must be employed by a qualifying organization.
  - For the purpose of engaging in the development of foreign trade and commerce of the United States on behalf of an American firm or corporation or a subsidiary thereof. The permanent resident must be employed by a qualifying organization. The United States employer must also demonstrate that it and the foreign subsidiary where the permanent resident will be placed are at least 51% owned by United States nationals.
  - Necessary to the protection of property rights outside the United States of an American firm or corporation engaged in the development of foreign trade and commerce of the United States. The permanent resident must be employed to perform such services.
  - On behalf of a public international organization of which the United States is a member. The permanent resident must be employed by a qualifying organization.
  - Solely because of the permanent resident's capacity as a clergyman or clergywoman, missionary, nun, or sister of a denomination or mission having a bona fide organization in the United States. The permanent resident will be serving in such capacity for a qualifying mission or organization.

3. The N-470 is filed with USCIS prior to the permanent resident being absent from the United States for one year.
4. The absence is in furtherance of the permanent resident's overseas employment.

### **TIMING OF APPLICATION FILING**

As referenced above, a permanent resident can only file Form N-470 if he or she has been physically present and residing in the United States, without any absences whatsoever, for at least one (1) year after becoming a permanent resident. An exception to this requirement applies to permanent residents who are clergyman or clergywoman, missionary, nun, or sister of a denomination or mission having a bona fide organization in the United States who are not required to live in the United States for a specific time prior to filing Form N-470.

In addition, Form N-470 must be submitted to USCIS before the permanent resident has been absent from the United States for a continuous period of one (1) year. An exception to this requirement applies to permanent residents who are clergyman or clergywoman, missionary, nun, or sister of a denomination or mission having a bona fide organization in the United States who are allowed to file Form N-470 before or after an absence of one year or more.

### **DEPENDENT FAMILY MEMBERS**

A permanent resident filing Form N-470 may extend the benefit to his or her spouse, dependent unmarried children, sons, and daughters. Separate Form N-470 Applications are not required for dependent family members who are all members of the same household and will live with the principal applicant while abroad.

### **YOUNOSSI LAW'S PROCESSING STEPS FOR FORM N-470 APPLICATION FILINGS**

Below is an outline of Younossi Law's processing of the N-470 application.

- **Step 1-- Initiation & Fact Gathering:** Upon a request to initiate a re-entry permit application filing, Younossi Law will send out fact gathering information to the applicant.

In most cases, the applicant's United States employer is initiating the filing due an overseas employment assignment so fact gathering documents will be sent to the employer as well. The applicant should also confirm the travel dates/itinerary so that

the application may be ideally filed while the applicant is physically present in the United States. The United States employer must document that it and the foreign subsidiary where the applicant will be placed are at least 51% owned by United States nationals.

- Step 2-- Preparation of Documents for Signature: Upon receipt of completed fact gathering documents, Younossi Law will prepare the forms for signature.

In cases where the applicant's United States employer is sending the applicant on overseas assignment, Younossi Law will prepare an affidavit for the United States employer to sign that describes the nature and purposes of the assignment and affirms that the United States employer and the foreign subsidiary where the applicant will be placed are at least 51% owned by United States nationals.

- Step 3-- Filing the Re-Entry Permit Application with USCIS: Once Younossi Law receives the signed forms and affidavit paperwork from the applicant (and employer, if applicable), the Form N-470 with supporting documents is filed with the local USCIS office with jurisdiction over the applicant's place of residence. Processing times can vary significantly as it will depend on the particular local USCIS office's capacity and volume at any given time.

### **N-470 APPLICANTS ARE STILL REQUIRED TO OBTAIN RE-ENTRY PERMITS**

Filing Form N-470 does not relieve permanent residents of obtaining re-entry permits to facilitate re-entries into the United States after absences of one (1) year or more.

The exception to this requirement is made for permanent residents who are members of the United States Armed Forces. A permanent resident employee of the United States government abroad who has filed Form N-470 is considered physically present in the United States during such employment abroad. He or she does not need to obtain a re-entry permit.

### **N-470 APPLICANTS STILL REQUIRED TO MEET PHYSICAL PRESENCE REQUIREMENTS FOR NATURALIZATION PURPOSES**

Even if a permanent resident obtains an approved Form N-470 preserving their residence for naturalization purposes, such permanent residents applying for naturalization are required to have been physically present in the United States for at least 30 months of the 5 year residency requirement (18 months if the applicant is married to a United States citizen).

The exception to this requirement is made for permanent residents who are members of the United States Armed Forces. A permanent resident employee of the United States government abroad who has filed Form N-470 is considered physically present in the United States during such employment abroad. He or she does not need to obtain a re-entry permit.

### **EFFECT OF CLAIMING NONRESIDENT ALIEN STATUS**

After attaining permanent resident status in the United States, if a permanent resident claims nonresident status under income tax laws, he or she may be regarded as having abandoned residence in the United States and has having lost permanent resident status under immigration and nationality laws. Such a claim may render a permanent resident ineligible for naturalization or preservation of residence for naturalization purposes.

### **EFFECT OF EMPLOYMENT CHANGES**

The USCIS's approval of Form N-470 is based on the employment and conditions stated in the application filing. If there are any changes to employment or conditions, they must be approved by USCIS via a new N-470 application filing.

### **APPROVAL OF FORM N-470 IS NOT A GUARANTEE OF ADMISSION TO THE UNITED STATES NOR A GUARANTEE OF NATURALIZATION**

While the approval of Form N-470 preserves residence for naturalization purposes, it is important to note that the approval of Form N-470 does not guarantee a permanent resident's admission to the United States. The permanent resident must still be found to be admissible to the United States and be deemed to maintaining their permanent resident status. Permanent residents are still:

- Required to obey all laws of the United States the states, and localities.
- Required to file income tax returns and report income to the U.S. Internal Revenue Service and state taxing authorities.
- Expected to support the democratic form of government and not to change the government through illegal means.
- Required, if a male age 18 through 25, to register with the Selective Service.

USCIS can also assess whether an individual has abandoned permanent resident status by considering the following additional criteria:

- Length of absence(s) from the United States
- Nature of absence.
- Maintenance of ties to the United States (e.g. ownership of property in United States, other financial assets in the United States, maintenance of a United States home address, family members residing in the United States, etc.).
- Filing of resident tax returns during the entire period of permanent resident status.
- The location and nature of the alien's employment during the absence (United States versus foreign employer, permanency or temporariness of foreign assignment, etc.)

Also, while the approval of Form N-470 preserves residence for naturalization purposes, the permanent resident must also meet the other requirements for naturalization outlined by the regulations.

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Permanent residents who are contemplating a lengthy absence outside the United States or who have general questions about maintaining permanent residence status should contact Younossi Law to discuss the impact, if any, on their permanent resident status or eligibility for naturalization in the United States.