

9 FAM 42.23 CERTAIN FORMER U.S. CITIZENS

*(CT:VISA-1870; 09-06-2012)
(Office of Origin: CA/VO/L/R)*

9 FAM 42.23 RELATED STATUTORY PROVISION

(CT:VISA-1870; 09-06-2012)

See INA 101(a)(27)(B) (8 U.S.C. 1101(a)(27)(B)), INA 324(a) (8 U.S.C. 1435(a)), INA 327 (8 U.S.C. 1438)

INA 101(a)(27)(B)

(27) The term “special immigrant” means –

- (B) an immigrant who was a citizen of the United States and may, under section 324(a) or 327 of title III, apply for reacquisition of citizenship;

INA 324(a)

- a. Any person formerly a citizen of the United States who (1) prior to September 22, 1922, lost United States citizenship by marriage to an alien, or by the loss of United States citizenship of such person’s spouse, or (2) on or after September 22, 1922, lost United States citizenship by marriage to an alien ineligible to citizenship, may if no other nationality was acquired by an affirmative act of such person other than by marriage be naturalized upon compliance with all requirements of this title, except—
 - (1) no period of residence or specified period of physical presence within the United States or within the State where the *application* is filed shall be required; and
 - (2) the application need not set forth that it is the intention of the applicant to reside permanently within the United States.

Such person, or any person who was naturalized in accordance with the provisions of section 317 (a) of the Nationality Act of 1940, shall have, from and after her naturalization, the status of a native-born or naturalized citizen of the United States, whichever status existed in the case of such person prior to the loss of citizenship: Provided, That nothing contained herein or in any other provision of law shall be construed as conferring United States citizenship retroactively upon such person, or upon any person who was naturalized in accordance with the provisions of section 317 (a) of the Nationality Act of 1940, during any period in which such person was not a citizen.

UNCLASSIFIED (U)

INA 327

- a. Any person who, (1) during World War II and while a citizen of the United States, served in the military, air, or naval forces of any country *at war with a country* with which the United States was at war after December 7, 1941, and before September 2, 1945, and (2) has lost United States citizenship by reason of entering or serving in such forces, may, upon compliance with all the provisions of title III, of this Act, except section 316(a), and except as otherwise provided in subsection (b), be naturalized by taking before *the Attorney General or before a court described in Section 310(b)* the oath required by section 337 of this title. Certified copies of such oath shall be sent by such court to the Department of State and to the Department of Justice and by the Attorney General to the Secretary of State.
- b. No person shall be naturalized under subsection (a) of this section unless he—
 - (1) is, and has been for a period of at least five years immediately preceding taking the oath required in subsection (a), a person of good moral character, attached to the principles of the Constitution of the United States and well disposed to the good order and happiness of the United States; and
 - (2) has been lawfully admitted to the United States for permanent residence and intends to reside permanently in the United States.
- c. Any person naturalized in accordance with the provisions of this section, or any person who was naturalized in accordance with the provisions of section 323 of the Nationality Act of 1940, shall have, from and after such naturalization, the status of a native-born, or naturalized, citizen of the United States, whichever status existed in the case of such person prior to the loss of citizenship: Provided, That nothing contained herein, or in any other provisions of law, shall be construed as conferring United States citizenship retroactively upon any such person during any period in which such person was not a citizen.
- d. For the purposes of this section, World War II shall be deemed to have begun on September 1, 1939, and to have terminated on September 2, 1945.
- e. This section shall not apply to any person who during World War II served in the armed forces of a country while such country was at war with the United States.

9 FAM 42.23 RELATED REGULATORY PROVISION

(CT:VISA-965; 06-09-2008)

See 22 CFR 42.23