7 FAM 1200
LOSS AND RESTORATION OF U.S. CITIZENSHIP

7 FAM 1210
INTRODUCTION

(CT:CON-262; 08-06-2008)
(Office of Origin: CA/OCS/PRI)

7 FAM 1211 SUMMARY

(CT:CON-262; 08-06-2008)

a. **Who may lose U.S. citizenship**: A U.S. citizen by birth or naturalization INA 301 (8 U.S.C. 1401), INA 310 (8 U.S.C. 1421) or a U.S. noncitizen national INA 308 (8 U.S.C. 1408), INA 101(29) (8 U.S.C. 1101(29)) will lose U.S. nationality ("expatriate") her or himself by committing a statutory act of expatriation as defined in INA 349 (8 U.S.C. 1481), or predecessor statute, but **only** if the act is performed (1) **voluntarily** and (2) **with the intention of relinquishing U.S. citizenship**. The U.S. Supreme Court has spoken *(Afroyim v. Rusk, 387 U.S. 253 (1967) and* Vance v. Terrazas, 444 U.S. 252 (1980)): a person cannot lose U.S. nationality unless he or she voluntarily relinquishes that status. 7 FAM 1200 Appendix B provides a summary of U.S. Supreme Court decisions regarding loss of nationality.

b. **Expatriation, like marriage and voting, is a personal elective right that cannot be exercised by another.** Parents or legal guardians cannot renounce or relinquish the nationality of their children or wards, including adults who have been declared mentally incompetent. 7 FAM 1290 provides guidance regarding loss of nationality and minors, incompetents, prisoners, plea bargains, and other special circumstances.

c. **Why expatriate**: People elect to expatriate themselves for a variety of reasons: family reasons, tax reasons, pressure from foreign governments, *and* service as a diplomat from a foreign country, etc. Motivation is not relevant unless questions of **duress** and **involuntariness** arise. There is no requirement that persons disclose their motivation to a consular officer though it is often helpful if they do so in case they are acting based on a mistaken assumption.

d. **Who has the burden of proving that loss of U.S. nationality occurred and what is the burden of proof**: The party claiming that loss of citizenship occurred must establish this by a preponderance of the evidence. Black's Law Dictionary defines a preponderance of the evidence as "[g]reater weight of evidence, or evidence which is more credible and convincing to the mind." Preponderance of the evidence equates to "more likely than not." This is also known as the "balance of probabilities." This is the standard required in most civil cases.

e. The U.S. Supreme Court originally found that the criterion of persuasion was by evidence that was clear, unequivocal, and convincing, comparable to the burden of proof in denaturalization cases (Nishikawa v. Dulles, 356 U.S. 129, 78 S. Ct. 612, 2 L. Ed. 2d 659 (1958)); however, Congress explicitly modified this conclusion by legislation enacted in the Act of Sept. 26, 1961, § 19, 75 Stat. 656, applicable to actions or proceedings hereafter commenced, which specifies that **a claim that loss of nationality occurred can be established by a preponderance of the evidence**. (INA 349(b), 8 U.S.C. 1481(b)): The constitutionality of this statutory provision was upheld by the Supreme Court in the Vance v. Terrazas case, 444 U.S. 252 (1980).

> **NOTE …**
>
> The standard of burden of proof for loss of nationality, preponderance of the evidence, **differs from the much higher standards of …**
>
> **Beyond a reasonable doubt -** this is the standard required by the prosecution in most criminal cases within an adversarial system. This means that the proposition being presented by the government must be proven to the extent that there is no "reasonable doubt" in the mind of a reasonable person that the defendant is guilty. There can still be a doubt, but only to the extent that it would not affect a "reasonable person's" belief that the defendant is guilty. If the doubt that is raised does affect a "reasonable person's" belief that the defendant is guilty, the jury is not satisfied beyond a "reasonable doubt"; or
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> **Clear and convincing evidence –** This is an intermediate level of burden of persuasion sometimes employed in the U.S. civil procedure. In order to prove something by "clear and convincing evidence" the party with the burden of proof must convince the trier of fact that it is substantially more likely than not that the thing is in fact true. This is a lesser requirement than "proof beyond a reasonable doubt" which requires that the trier of fact be close to certain of the truth of the matter asserted, but a stricter requirement than proof by "preponderance of the evidence," which merely requires that the matter asserted seem more likely true than not.

f. **Four elements must be established before a finding of loss may be**

made:

(1) The person is in fact a U.S. citizen;

(2) The person committed an act that is potentially expatriating under INA 349(a) (8 U.S.C. 1481(a));

(3) The person committed the act voluntarily. A person who commits a potentially expatriating act is presumed to have done so voluntarily, but the presumption may be rebutted upon a showing, by a **preponderance of the evidence**, that the act or acts committed or performed were not done voluntarily. (INA 349(b), 8 U.S.C. 1481(b)); and

(4) The person intended to relinquish the rights and privileges of U.S. citizenship. *If the would-be renunciant/person relinquishing U.S. citizenship demonstrates a clear intention to resume his/her residency in the United States without applying for a U.S. visa, the intention to relinquish U.S. citizenship has not been established satisfactorily and a finding of non-loss should be made.*

g. **Where must the expatriating act occur**: The expatriating act, except for an oath of renunciation taken during the course of a state of war or conviction of treason and certain other crimes, must be committed overseas for it to be effective; however, a potentially expatriating act performed in the United States may thereafter result in the loss of citizenship if the citizen *thereafter* takes up residence in a foreign country. (INA 351, 8 U.S.C. 1483(a)). INA 349(a)(6) provides for renunciation of U.S. citizenship in the United States before such officer as may be designated by the Attorney General, whenever the United States shall be in a state of war and the Attorney General shall approve such renunciation as not contrary to the interests of national defense. The U.S. Departments of Justice and Homeland Security have not promulgated regulations implementing this provision. There is no requirement that a U.S. citizen renouncing or relinquishing U.S. citizenship abroad be a resident of the U.S. consular district.

h. **Relinquish v. renounce**: INA 349(a)(5) prescribes how renunciation of U.S. citizenship must occur. This is explained in detail in 7 FAM 1280. A citizen may also voluntarily relinquish U.S. citizenship *upon* committing *voluntarily* one of the other potentially expatriating acts enumerated in INA 349 *and possessing the requisite intent to relinquish*. The distinction becomes meaningful when a person who has been found to have lost U.S. citizenship later requests an appeal or administrative review of that decision. It is much more difficult to establish a lack of intent or duress for renunciation of U.S. citizenship.

i. **No temporary suspension of U.S. citizenship**: A person cannot renounce or relinquish U.S. citizenship temporarily or put his or her U.S.

citizenship "in suspense" while, for example, accepting a diplomatic appointment from a foreign government. A loss of citizenship is permanent and irrevocable, unless the U.S. Government subsequently overturns the loss for involuntariness or lack of intent. Individuals who lose citizenship would need to reacquire it though naturalization.

j. **No retroactive effect on derivative citizenship**: Unlike denaturalization, loss of nationality operates only for the future, and has no retroactive effect. The expatriated citizen's status was lawfully acquired, and its termination does not affect previous events. For this reason, a person's loss of nationality does not affect citizenship or immigration status previously acquired on the basis of the principal's citizenship, unless the effective date of loss of U.S. citizenship pre-dated the time when a benefit accrued based on the fact that the person was believed to be a U.S. citizen. Thus, the loss of nationality does not terminate the citizenship of the principal's children, acquired derivatively through their parent prior to the parent's loss of nationality. For this reason, it often has been necessary to *determine* the precise date of expatriation, since children born abroad before that date may have acquired U.S. citizenship, while those born after that date would have no such claim.

7 FAM 1212 FORMS TO BE USED IN DEVELOPING A LOSS-OF-NATIONALITY CASE

(CT:CON-262; 08-06-2008)

a. The following Department of State forms have been approved to develop and document a loss-of-nationality case:

(1) Form DS-4079, Questionnaire - Information for Determining Possible Loss of U.S. Citizenship;

(2) Form DS-4083, Certificate of Loss of Nationality of the United States ("CLN");

(3) Form DS-4080, Oath of Renunciation of the Nationality of the United States;

(4) Form DS-4081, Statement of Understanding Concerning the Consequences and Ramifications of Relinquishment or Renunciation of U.S. Citizenship; and

(5) Form DS-4082, Witnesses' Attestation Renunciation/Relinquishment of Citizenship: **To be used only when the person relinquishing or renouncing citizenship does not speak English**.

b. Effective the publication date of this subchapter, the Bureau of Consular Affairs (CA) is reinstating the use of the new questionnaire, Form DS-

4079 in developing a loss-of-nationality case if the citizen states **there was an intent to relinquish U.S. citizenship when performing the potentially expatriating act**:

(1) The Department (CA/OCS and L/CA) have determined that the new questionnaire Form DS-4079 is an important element in developing a loss-of-nationality case;

(2) In 1995, CA discontinued use of the questionnaire in loss-of-nationality cases under INA 349(a)(1); INA 349(a)(2), INA 349(a)(3) and INA 349(a)(4) (1995 State 034894);

(3) A questionnaire was used between March 30, 1984, and February 10, 1995;

(4) For guidance about documentation required by the Department for loss-of-nationality cases prior to 1984, consult CA/OCS/PRI at ASKPRI@state.gov.

7 FAM 1213 RESPONSIBILITY FOR LOSS-OF-NATIONALITY CASES

(CT:CON-262; 08-06-2008)

a. **Who may prepare a Certificate of Loss of Nationality (CLN) and accompanying documents**:

(1) INA 358 authorizes a diplomatic or consular officer to certify facts on which it is believed a U.S. citizen may have lost citizenship. (Note that the consular officer's finding is not self-executing. Actual approval of the finding of loss of nationality can only be made by *the Department*, Form DS-4083, formerly; Form FS-348, is used to record and certify loss of citizenship. INA 358 applies to cases arising under Chapter IV NA (Section 401 to 410 inclusive), and to Chapter 3, Title III INA 349 to INA 357 inclusive. Cases involving loss under the Act of 1907 are rare; when these cases arise, the consular officer should seek advice from CA/OCS/PRI (ASKPRI@state.gov);

(2) A CLN is not prepared when citizenship was lost through failure to comply with the retention provisions of former INA 301(b), prior to its repeal, effective October 10, 1978 (see 7 FAM 1131.7, 7 FAM 1133.2-2 and 7 FAM 1133.5);

(3) A consular officer at a U.S. embassy or consulate abroad may prepare a preliminary recommendation of a finding of loss of nationality in the form prescribed and transmit it to the Office of American Citizen Services and Crisis Management (CA/OCS/ACS) for approval.

b. **Who may approve a Certificate of Loss of Nationality**: The authority to approve or disapprove a finding of loss of nationality is a grave responsibility; consequently, the Department of State has imposed a high level of checks and balances for such decision making. This is the one area of citizenship and nationality law which has **not been** *and absent a change in the statute cannot be* **delegated to U.S. consular officers abroad**:

(1) **Only** a division chief in the Office of American Citizen Services and Crisis Management (CA/OCS/ACS) in the Directorate of Overseas Citizens Services, Bureau of Consular Affairs of the Department of State, may approve a Certificate of Loss of Nationality;

(2) If the CA/OCS/ACS Division Chief is not available, the Acting Division Chief may approve a Certificate of Loss of Nationality, **only** if a formal delegation of authority memo from the Division Chief to the Acting Division Chief, cleared by the Director of CA/OCS/ACS exists;

(3) CA/OCS/ACS should consult CA/OCS/PRI for guidance before making a finding of loss of nationality in the following circumstances:

(a) Any case involving mental impairment;

(b) Any case involving a prisoner/plea bargain;

(c) Any case involving a minor or a person near the age of 18;

(d) Any case of a person taking up a high-level position in *a foreign government;*

(e) Any case of a person serving in the armed forces of a foreign state engaged in hostilities against the United States;

(f) Any case involving a person who is a member of a cult or other community in which persons are relinquishing or renouncing U.S. citizenship as a group; or

(g) *Any case in which a person makes statements, in the citizenship questionnaire or a supplementary statement, which are contradictory or ambiguous with respect to his or her intent to relinquish U.S. citizenship or the voluntariness of his/her actions.*

c. **Who may conduct an administrative review of a previous finding of loss of nationality**:

(1) The office making the original determination of loss of nationality *should not* conduct the administrative review;

(2) All reconsideration of previous findings of loss of nationality must be conducted by CA/OCS/PRI.

(3) An attorney cannot be assigned the reconsideration if he or she was consulted by CA/OCS/ACS regarding the original finding of loss of nationality;

(4) As appropriate, CA/OCS/PRI will confer with the Office of the Assistant Legal Adviser for Consular Affairs (L/CA). CA/OCS/PRI will confer with L/CA in each case in which CA/OCS/PRI proposes to sustain a CLN;

(5) The role of CA/OCS/PRI in administrative review of loss of nationality and in vacating a CLN replaces the formal appeal procedure previously provided by the Board of Appellate Review (L/BAR). 22 CFR 7.2 provides that "the Department may administratively vacate a CLN on its own initiative at any time."

7 FAM 1214 AUTHORITY

(CT:CON-262; 08-06-2008)

a. The Secretary of State has statutory authority to determine whether a person **not in the United States** is a U.S. citizen or noncitizen national, including whether a person who was a U.S. citizen or noncitizen national has lost U.S. nationality. INA 104(a)(3) (8 U.S.C. 1104(a)(3)) and INA 358(8 U.S.C. 1501). The Department of State also makes nationality determinations, including loss-of-nationality determinations, when adjudicating passport applications, because only a U.S. citizen or U.S. noncitizen national may be issued a U.S. passport.

b. **Immigration and Nationality Act of 1952, as amended**:

(1) The grounds for loss of nationality enumerated in the Nationality Act of 1940 were codified and again expanded in the Immigration and Nationality Act of 1952 (Public Law No. 82-414, §§ 349-357, 66 Statutes at Large 267). The law which applies, e.g., the Nationality Act of 1940 or the INA, is the law in effect on the date of the potentially expatriating act;

(2) Early amendments of the statute tended to enhance its severity;

(3) Act of Sept. 3, 1954, § 2, 68 Statutes at Large 1146 (adding as grounds for loss of citizenship conviction for certain crimes, including rebellion and insurrection, seditious conspiracy, and advocating forceful overthrow of the U.S. Government); Act of Sept. 26, 1961, § 19, 75 Statutes at Large 656 (adding INA § 401(c), 8 U.S.C. § 1481(c));

(4) **However, as a result of later Supreme Court decisions, Congress adopted amendments in 1986 which simplified and liberalized the statute, and emphasized the need for** *an*

intention to lose nationality (Immigration and Nationality Act Amendments of 1986, Public Law No. 99-653, § 18, 100 Statutes at Large 3655). Section 18(a) of Public Law 99-653 provided that Subsection (a) of INA 349 (8 U.S.C. 1481) was amended by inserting "voluntarily performing any of the following acts with the intention of relinquishing United States nationality:" after "shall lose his nationality by";

(5) An amendment of the statute in 1986 eliminated the provision allowing for approval of the foreign military service by the Secretaries of State and Defense and provided that a U.S. national who has attained the age of 18 would potentially lose U.S. nationality by entering or serving in the armed forces of a foreign state if such armed forces were engaged in hostilities against the United States or if the person served as a commissioned or noncommissioned officer of such foreign armed forces. Immigration and Nationality Act Amendments of 1986, Public Law No. 99-653, § 18(d), 100 Stat. 3658 (amending INA 349(a)(3), 8 U.S.C. 1481(a)(3));

(6) Public Law 103-416, the Immigration and Nationality Technical Corrections Act of 1994, 108 Statutes at Large 4305, amended INA 358 of the Immigration and Nationality Act (8 U.S.C. 1501) by adding at the end the following new sentence: "Approval by the Secretary of State of a certificate under this section shall constitute a final administrative determination of loss of United States nationality under this Act, subject to such procedures for administrative appeal as the Secretary may prescribe by regulation, and also shall constitute a denial of a right or privilege of United States nationality for purposes of section 360";

(7) **Chart**: INA 349 and developments in subsequent rulings by the U.S. Supreme Court and statutory amendments:

Expatriating Act	Section of Law	Notes
Naturalization in a foreign state	8 U.S.C. 1481(a)(1) INA 349(a)(1)	After attaining age 18
Taking oath of allegiance to a foreign state	8 U.S.C. 1481(a)(2) INA 349(a)(2)	After attaining age 18

Service in the armed forces of a foreign state	8 U.S.C. 1481(a)(3) INA 349(a)(3)	(A) If such armed forces are engaged in hostilities against the United States; or (B) If such persons serve as a commissioned or noncommissioned officer.
Employment by a foreign state	8 U.S.C. 1481(a)(4) INA 349(a)(4)	If after attaining age 18 … (A) He or she has or acquires the nationality of such foreign state; or (B) For such position an oath, affirmation or declaration of allegiance is required
Renunciation of U.S. citizenship abroad	8 U.S.C. 1481(a)(5) INA 349(a)(5)	**NOTE**: Formerly numbered 8 U.S.C. 1481(a)(6); see Afroyim v. Rusk, 387 U.S. 253 (1967) (eliminating voting in a foreign election as an expatriating act)
Renunciation of U.S. citizenship while in the United States	8 U.S.C. 1481(a)(6) INA 349(a)(6)	1. Before officer designated by the Attorney General; 2. Whenever the United States shall be in a state of war; and 3. The Attorney General shall approve such renunciation not contrary to the interests of national defense **NOTE**: The Attorney General and Secretary of DHS have not designated an officer to receive domestic renunciations; Formerly numbered INA 349(a)(7) renumbered when Afroyim decision eliminated INA 349(a)(5) Voting in a Political Election
Treason against the United States	8 U.S.C. 1481(a)(7) INA 349(a)(7)	Formerly numbered INA 349(a)(9) renumbered when 8 U.S.C. 1481(a)(8) Deserting the Armed Forces of the United States at Time of War declared unconstitutional
Former *grounds for* **loss, declared**	INA 349(a)(5) as	**Declared unconstitutional**: Afroyim v. Rusk; see 7 FAM 1200

unconstitutional: Voting in a foreign election _____ Deserting the armed forces of the United States at time of war, if and when convicted thereof by court martial and dishonorably discharged	originally enacted; 8 U.S.C. 1481(a)(5)	Appendix B _____ **Declared unconstitutional**: Trop v. Dulles, 356 U.S. 86, 78 S. Ct. 590, 2 L. Ed. 2d 630 (1958); repealed in 1978 as amended by Immigration and Nationality Act Amendments of 1986, Public Law No. 99-653, § 18(a), 100 Stat. 3658.
Departing from or remaining outside of the United States in time of war or period declared by the President to be a period of national emergency for the purpose of evading or avoiding training and service in the armed forces of the United States.	INA 349(a)(10); 8 U.S.C. 1481(a)(10)	**Declared unconstitutional**: Kennedy v. Mendoza-Martinez, 372 U.S. 144, 83 S. Ct. 554, 92 L. Ed. 644 (1963) Notes: 1. An 1865 statute providing for loss of citizenship by draft evaders was repealed in 1940 2. Legislation, enacted in 1944 and codified in the Act of 1952, prescribed loss of nationality for departing from or remaining outside the United States during time of war or declared national emergency in order to evade or avoid service in the armed forces of the United States 3. These statutory provisions were declared unconstitutional by the Supreme Court (Kennedy v. Mendoza-Martinez, 372 U.S. 144, 83 S. Ct. 554, 92 Lawyers Edition (L. Ed.) 644 (1963) and were repealed by Congress in 1976, Footnote 297, National Emergencies Act of 1976, Public Law No. 94-412, § 501(a), 90 Statutes at Large. 1255, 1258; see Senate Report No. 1168, 94th Congress., 2d Session. 32 (1976), reprinted in 1976 U.S.C.C.A.N. 2288; House of Representatives Report No. 238, 94th Congress., 2d

		Session 15 (1975).
Seeking and claiming a benefit of a foreign nationality acquired at birth by a person born a citizen of the United States	INA 350 (8 U.S.C. 1482)	Repealed prospectively October 10, 1978 Public Law 95-432 See 7 FAM 1200 Appendix D
Naturalized citizen taking up residence in former country of origin	INA 352 (8 U.S.C. 1484)	**Declared Unconstitutional**: Schneider v. Rusk, 377 U.S. 163 (1964); repealed Public Law 95-432 on October 10, 1978; see 7 FAM 1200 Appendix D

c. The Nationality Act of 1940 (54 Statutes at Large 1137) considerably enlarged the grounds for loss of nationality:

(1) In addition to naturalization in or oath of allegiance to a foreign state, the enumerated acts of expatriation were extended to include military or government service for a foreign government, voting in a foreign political election, formal renunciation of citizenship, deserting the armed forces in time of war, treason, and specified residence in foreign countries by naturalized citizens;

(2) **Chart**: Nationality Act of 1940 and developments in subsequent rulings by the U.S. Supreme Court and statutory amendments:

Expatriating Act	**Section of Law**	**Notes**
Naturalization in a foreign state	Section 401(a) NA	
Taking an oath or affirmation of allegiance to a foreign state	Section 401(b) NA	After attaining age 18
Entering, serving in the armed forces of a foreign state	Section 401(c) NA	
Accepting position in a foreign government for which only nationals are eligible	Section 401(d) NA	
Voting in foreign election	Section 401(e) NA	**Declared unconstitutional**: Afroyim v. Rusk; see 8

		FAM 1200 Appendix B
Renunciation of U.S. citizenship	Section 401(f) NA	
Deserting the United States Military or Naval Service in time of war	Section 401(g) NA	**Declared unconstitutional**: Trop v. Dulles; see 7 FAM 1200 Appendix B
Treason	Section 401(h) NA	

d. **The Expatriation Act of 1907** (Act of March 2, 1907, 34 Statutes at Large 1228) largely codified prior executive interpretations, specified that loss of citizenship would occur by naturalization in or oath of allegiance to a foreign state, that a U.S. citizen woman who married a foreigner would take the nationality of her husband, and that when a naturalized citizen lived in a foreign state for certain periods it was presumed that he or she ceased to be a U.S. citizen. In spelling out the grounds for loss of nationality the 1907 Act made provision for effectuating the citizen's apparent wishes. In addition, it introduced a new concept by prescribing situations in which citizenship could be lost without regard to such desires.

e. **Related statutes**:

(1) 26 U.S.C. 6039G Information on Individuals Losing U.S. Citizenship (Internal Revenue Code);

(2) 18 U.S.C. 922G Unlawful Acts – Sale of Firearms to Renunciants (Brady Act).

f. **Regulatory authority**: (Current 22 CFR 50.40 Certificate of Loss of U.S. Nationality; 22 CFR 50.50 Renunciation of Nationality; 22 CFR 50.51 Notice of Right to Appeal). CA/OCS/PRI is in the process of revising 22 CFR Part 50, including to eliminate the Board of Appellate Review.

7 FAM 1215 STATELESSNESS RESULTING FROM LOSS OF NATIONALITY

(CT:CON-262; 08-06-2008)

a. Persons who renounce their U.S. citizenship or commit any statutory act of expatriation intending thereby to relinquish such citizenship should understand that, unless they already possess a foreign nationality or are assured of acquiring another nationality shortly after completing their

renunciation, they will become stateless and severe hardship to them could result. In the absence of a second nationality, those individuals would become stateless. Even if they possess permanent resident status in a foreign country, they could encounter difficulties continuing to reside there without a nationality.

b. *The U.S. Government generally cannot accord stateless former U.S. nationals the consular assistance that is provided for U.S. citizens and U.S. noncitizen nationals pursuant to the Vienna Convention on Consular Relations (VCCR), U.S. statutes and regulations, and customary international law.*

c. *Stateless former U.S. nationals may also find it difficult or impossible to travel as they may not be issued a U.S. passport, and would probably not be able to obtain a passport or any other travel document from any country. Further, a person who has renounced U.S. citizenship will be required to apply for a visa to travel to the United States, just as other aliens do. If found ineligible for a visa, he or she could be permanently barred from the United States.*

d. *Expatriation will not necessarily prevent a former citizen's deportation from a foreign country to the United States, nor will it necessarily exempt that person from being prosecuted in the United States for any outstanding criminal charges or held liable for any military obligations or any taxes owed to the United States. The fact that a person has been rendered stateless does not serve to nullify the individual's expatriation if the renunciation is done voluntarily and with the intention to relinquish U.S. nationality.*

e. *In making all these points clear to potentially stateless renunciants, the Department of State will, nevertheless, afford them their right to expatriate. We will accept and approve renunciations of persons who do not already possess another nationality. It should be noted, however, that if a foreign state deports such individuals, he or she may find themselves deported to the United States, the country of their former nationality.*

7 FAM 1216 VISA REQUIREMENTS FOR FORMER U.S. CITIZENS AND VISA EXCLUDABILITY

(CT:CON-262; 08-06-2008)

a. *Visa requirements for former U.S. citizens: An expatriate is subject to all of the requirements for entry to the United States that apply to other aliens, including visa requirements, and to all of the grounds of visa*

denial and inadmissibility for aliens.

b. *Visa excludability for persons found by the Attorney General to have renounced U.S. citizenship for the purposes of avoiding taxation: The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRAIRA) (Public Law 104-208) added 212(a)(10)(E) to the Immigration and Nationality Act (8 U.S.C. 1182 (a)(10)(E)). INA 212(a)(10)(E) made inadmissible "any alien who is a former citizen of the United States who officially renounces United States citizenship and who is determined by the Attorney General to have renounced United States citizenship for the purpose of avoiding taxation." This amendment applies only to individuals who renounced U.S. citizenship on or after the effective date of the Act, September 30, 1996. (See 9 FAM 40.105 N1 Applicability of INA 212(a)(10)(E).) The Attorney General's authority transferred to the Secretary of Homeland Security under the Homeland Security Act of 2002. The Department of Homeland Security has not published implementing regulations on INA 212(a)(10)(E) (8 U.S.C. 1182), so no procedures implementing this law are currently in effect.*

7 FAM 1217 THROUGH 1219 UNASSIGNED